

Table of Contents

2017 Regular Session

Volume I

Chapters 1 - 194

| | |
|-----------------------------------------------------------|------------|
| CHAPTER 1 (HB 1, Bratcher and others) | 1 |
| CHAPTER 2 (HB 2, Bratcher and others) | 5 |
| CHAPTER 3 (HB 3, Bratcher and others) | 8 |
| CHAPTER 4 (SB 3, Seum and others) | 25 |
| CHAPTER 5 (SB 5, Seum and others) | 30 |
| CHAPTER 6 (SB 6, Seum and others) | 39 |
| CHAPTER 7 (SB 12, Stivers II) | 42 |
| CHAPTER 8 (HB 174, Gooch Jr. and others) | 44 |
| CHAPTER 9 (SB 140, Hornback) | 46 |
| CHAPTER 10 (HB 180, Westrom and others) | 48 |
| CHAPTER 11 (HB 192, Westrom and others) | 60 |
| CHAPTER 12 (SB 2, Thayer and others) | 63 |
| CHAPTER 13 (SB 116, Meredith) | 85 |
| CHAPTER 14 (SB 117, Wilson and others) | 86 |
| CHAPTER 15 (SB 17, Seum and others) | 92 |
| CHAPTER 16 (HB 207, McCoy) | 95 |
| CHAPTER 17 (HB 223, Fischer) | 103 |
| CHAPTER 18 (HB 26, Koenig and others) | 105 |
| CHAPTER 19 (HB 237, King and others) | 106 |
| CHAPTER 20 (HB 239, Osborne and others) | 107 |
| CHAPTER 21 (HB 144, Santoro and Hale) | 108 |
| CHAPTER 22 (SB 4, Seum and others) | 108 |
| CHAPTER 23 (SB 42, Schickel and others) | 115 |
| CHAPTER 24 (SB 151, Schroder and Meredith) | 116 |
| CHAPTER 25 (SB 79, Alvarado and others) | 122 |
| CHAPTER 26 (HCR 59, Riggs and others) | 131 |
| CHAPTER 27 (HB 14, Burch and others) | 132 |
| CHAPTER 28 (HB 35, Miller) | 133 |
| CHAPTER 29 (HB 93, Santoro and others) | 141 |
| CHAPTER 30 (HB 112, Westrom and others) | 141 |
| CHAPTER 31 (HB 163, Greer and Rowland) | 143 |
| CHAPTER 32 (HB 173, Miller) | 146 |
| CHAPTER 33 (HB 189, Westrom and others) | 188 |

| | |
|--------------------------------------------------------|-----|
| CHAPTER 34 (HB 191, Riggs and others) | 191 |
| CHAPTER 35 (HB 265, Dossett and others) | 198 |
| CHAPTER 36 (HB 268, Palumbo and others) | 200 |
| CHAPTER 37 (HB 269, Riley) | 203 |
| CHAPTER 38 (HB 289, Blanton) | 206 |
| CHAPTER 39 (HB 311, Moore and others) | 210 |
| CHAPTER 40 (HB 312, Mayfield and Riley) | 212 |
| CHAPTER 41 (HB 329, Fischer) | 215 |
| CHAPTER 42 (HB 498, Moore) | 215 |
| CHAPTER 43 (SB 10, Hornback) | 233 |
| CHAPTER 44 (SB 101, Higdon and others) | 234 |
| CHAPTER 45 (SB 218, Stivers II and Thayer) | 237 |
| CHAPTER 46 (SB 128, Hornback and Girdler) | 248 |
| CHAPTER 47 (SB 129, Hornback and others) | 249 |
| CHAPTER 48 (HB 119, Riggs and others) | 251 |
| CHAPTER 49 (SB 89, Harper Angel and others) | 258 |
| CHAPTER 50 (SB 122, Schroder) | 259 |
| CHAPTER 51 (SB 147, Givens and Wilson) | 266 |
| CHAPTER 52 (SB 153, Givens and others) | 267 |
| CHAPTER 53 (SB 163, Girdler) | 271 |
| CHAPTER 54 (SB 165, West) | 273 |
| CHAPTER 55 (SB 176, West) | 284 |
| CHAPTER 56 (SB 183, Carpenter) | 289 |
| CHAPTER 57 (SB 189, Buford and others) | 290 |
| CHAPTER 58 (SB 197, Bowen) | 290 |
| CHAPTER 59 (HB 100, Westrom and others) | 295 |
| CHAPTER 60 (HB 113, Riggs and others) | 302 |
| CHAPTER 61 (HB 158, Richards and others) | 303 |
| CHAPTER 62 (HB 183, Koenig) | 315 |
| CHAPTER 63 (HB 195, Miller and others) | 380 |
| CHAPTER 64 (SB 8, Thayer and others) | 421 |
| CHAPTER 65 (SB 21, Wilson and others) | 423 |
| CHAPTER 66 (SB 38, Bowen and others) | 425 |
| CHAPTER 67 (SB 39, Carroll) | 426 |
| CHAPTER 68 (SB 50, Thayer and others) | 427 |
| CHAPTER 69 (SB 73, Embry Jr.) | 431 |
| CHAPTER 70 (HB 366, Johnson) | 438 |
| CHAPTER 71 (HB 368, Simpson and St. Onge) | 456 |
| CHAPTER 72 (HB 384, Benvenuti III and Prunty) | 457 |
| CHAPTER 73 (HB 403, Pratt) | 459 |

| | |
|----------------------------------------------------|-----|
| CHAPTER 74 (HB 453, Hart) | 460 |
| CHAPTER 75 (HB 502, Johnson) | 529 |
| CHAPTER 76 (HB 38, Westrom and others) | 531 |
| CHAPTER 77 (HB 50, Wuchner and others) | 531 |
| CHAPTER 78 (HB 67, Palumbo and others) | 535 |
| CHAPTER 79 (HB 74, Westrom and others) | 538 |
| CHAPTER 80 (HB 276, Moffett) | 541 |
| CHAPTER 81 (HB 284, Meredith) | 599 |
| CHAPTER 82 (HB 293, Reed and Rothenburger) | 605 |
| CHAPTER 83 (HB 299, Brown and Castlen) | 620 |
| CHAPTER 84 (HB 304, Palumbo and others) | 632 |
| CHAPTER 85 (HB 306, Richards and others) | 644 |
| CHAPTER 86 (HB 318, Meredith) | 645 |
| CHAPTER 87 (HB 324, Wells) | 651 |
| CHAPTER 88 (HB 337, Rudy) | 653 |
| CHAPTER 89 (HB 343, Brown) | 653 |
| CHAPTER 90 (HB 222, Greer and others) | 666 |
| CHAPTER 91 (HB 225, Moore and Webber) | 667 |
| CHAPTER 92 (HB 226, Wuchner and Prunty) | 668 |
| CHAPTER 93 (HB 227, Riggs and others) | 681 |
| CHAPTER 94 (HB 242, DuPlessis) | 693 |
| CHAPTER 95 (HB 245, Miller) | 703 |
| CHAPTER 96 (HB 255, Richards and others) | 705 |
| CHAPTER 97 (HB 262, Webber) | 707 |
| CHAPTER 98 (HB 270, Upchurch and others) | 708 |
| CHAPTER 99 (HB 271, Palumbo and others) | 709 |
| CHAPTER 100 (HB 410, Dossett and others) | 713 |
| CHAPTER 101 (SB 107, Stivers II) | 743 |
| CHAPTER 102 (HB 520, Carney and Heath) | 757 |
| CHAPTER 103 (SB 238, Carroll and Givens) | 774 |
| CHAPTER 104 (HB 351, Miller) | 778 |
| CHAPTER 105 (HB 246, Riggs and others) | 782 |
| CHAPTER 106 (HB 153, Greer and others) | 787 |
| CHAPTER 107 (SB 146, Adams) | 788 |
| CHAPTER 108 (SB 150, Alvarado and Carroll) | 796 |
| CHAPTER 109 (SB 159, Thayer and others) | 797 |
| CHAPTER 110 (SB 170, Kerr) | 797 |
| CHAPTER 111 (SB 177, Girdler) | 807 |
| CHAPTER 112 (SB 195, Westerfield) | 821 |
| CHAPTER 113 (SB 205, Meredith) | 822 |
| CHAPTER 114 (SB 224, Schroder) | 822 |

| | |
|--------------------------------------------------------|------|
| CHAPTER 115 (SB 236, Alvarado and others) | 824 |
| CHAPTER 116 (SB 248, Carpenter) | 832 |
| CHAPTER 117 (SB 249, Carpenter) | 834 |
| CHAPTER 118 (SB 11, Humphries and others) | 886 |
| CHAPTER 119 (SB 19, Westerfield and others) | 887 |
| CHAPTER 120 (SB 32, Alvarado and others) | 890 |
| CHAPTER 121 (SB 62, Buford and McGarvey) | 894 |
| CHAPTER 122 (SB 75, Stivers II and others) | 895 |
| CHAPTER 123 (SB 81, Embry Jr.) | 907 |
| CHAPTER 124 (SB 83, Buford) | 910 |
| CHAPTER 125 (SB 104, McDaniel) | 910 |
| CHAPTER 126 (SB 126, Schickel and McDaniel) | 923 |
| CHAPTER 127 (SB 135, Buford) | 935 |
| CHAPTER 128 (SB 136, Buford and others) | 935 |
| CHAPTER 129 (SB 139, Webb) | 936 |
| CHAPTER 130 (SB 173, Bowen) | 968 |
| CHAPTER 131 (HB 395, Elliott) | 968 |
| CHAPTER 132 (HB 390, Prunty) | 980 |
| CHAPTER 133 (HB 473, DeCesare) | 999 |
| CHAPTER 134 (HB 378, DeCesare) | 1006 |
| CHAPTER 135 (HB 374, Benvenuti III and others) | 1030 |
| CHAPTER 136 (HB 364, Santoro and Bentley) | 1037 |
| CHAPTER 137 (HB 350, Meredith and others) | 1053 |
| CHAPTER 138 (HB 314, Wuchner and others) | 1054 |
| CHAPTER 139 (HB 294, Miles and others) | 1060 |
| CHAPTER 140 (HB 274, Pratt) | 1061 |
| CHAPTER 141 (HB 238, Richards and others) | 1073 |
| CHAPTER 142 (HB 234, Gooch Jr. and others) | 1075 |
| CHAPTER 143 (HB 215, Riggs and Rowland) | 1079 |
| CHAPTER 144 (HB 208, Imes) | 1081 |
| CHAPTER 145 (HB 200, Palumbo and others) | 1083 |
| CHAPTER 146 (HB 184, Gooch Jr. and others) | 1084 |
| CHAPTER 147 (HB 161, Palumbo and others) | 1091 |
| CHAPTER 148 (HB 27, Stewart III) | 1092 |
| CHAPTER 149 (HJR 56, Webber and others) | 1093 |
| CHAPTER 150 (SB 222, Harris and others) | 1095 |
| CHAPTER 151 (SB 182, Schickel and Schroder) | 1103 |
| CHAPTER 152 (HB 471, Richards and others) | 1104 |
| CHAPTER 153 (HB 540, St. Onge) | 1110 |
| CHAPTER 154 (SB 91, Kerr and others) | 1113 |

| | |
|----------------------------------------------------|------|
| CHAPTER 155 (SJR 57, Givens) | 1117 |
| CHAPTER 156 (SB 1, Stivers II and others) | 1122 |
| CHAPTER 157 (SB 114, Girdler) | 1164 |
| CHAPTER 158 (SB 120, Westerfield) | 1166 |
| CHAPTER 159 (HB 33, Miller and others)..... | 1244 |
| CHAPTER 160 (HB 241, Richards and others)..... | 1245 |
| CHAPTER 161 (HB 376, Hale) | 1247 |
| CHAPTER 162 (HB 387, Richards and Hale) | 1256 |
| CHAPTER 163 (HB 492, Osborne and others)..... | 1258 |
| CHAPTER 164 (HB 156, Gooch Jr. and others) | 1259 |
| CHAPTER 165 (HB 206, Carney)..... | 1268 |
| CHAPTER 166 (HB 257, DeCesare)..... | 1270 |
| CHAPTER 167 (HB 282, Petrie)..... | 1271 |
| CHAPTER 168 (HB 333, Wayne and others) | 1298 |
| CHAPTER 169 (HB 394, Wells)..... | 1314 |
| CHAPTER 170 (HB 522, Meeks and Carney) | 1370 |
| CHAPTER 171 (HB 524, Westrom and others)..... | 1370 |
| CHAPTER 172 (HB 375, Dossett and others)..... | 1377 |
| CHAPTER 173 (HB 377, DeCesare)..... | 1378 |
| CHAPTER 174 (HB 388, Santoro and others)..... | 1391 |
| CHAPTER 175 (HB 484, Riley) | 1395 |
| CHAPTER 176 (HB 482, Mayfield and others)..... | 1403 |
| CHAPTER 177 (HB 469, Hoover)..... | 1404 |
| CHAPTER 178 (HB 443, Meade and others)..... | 1416 |
| CHAPTER 179 (HCR 48, Dossett and others)..... | 1446 |
| CHAPTER 180 (HCR 90, Gooch Jr. and others) | 1447 |
| CHAPTER 181 (HB 72, Gooch Jr. and others) | 1448 |
| CHAPTER 182 (HB 417, Riggs and others)..... | 1449 |
| CHAPTER 183 (HB 78, Greer and others) | 1461 |
| CHAPTER 184 (HB 404, Santoro and Hart) | 1462 |
| CHAPTER 185 (HB 360, DeCesare and others)..... | 1465 |
| CHAPTER 186 (HB 396, Palumbo and others)..... | 1467 |
| CHAPTER 187 (HB 128, Moore and others)..... | 1470 |
| CHAPTER 188 (HB 253, Greer and others) | 1472 |
| CHAPTER 189 (HB 330, Jenkins and others) | 1473 |
| CHAPTER 190 (HB 319, Osborne and others)..... | 1474 |
| CHAPTER 191 (HB 309, Jenkins and others) | 1481 |
| CHAPTER 192 (HB 277, Reed and Sims Jr) | 1488 |
| CHAPTER 193 (SB 235, McGarvey) | 1489 |
| CHAPTER 194 (HB 13, Richards and others)..... | 1506 |

CHAPTER 1

(HB 1)

AN ACT relating to right-to-work provisions involving a condition of employment or continuation of employment and declaring an emergency.

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

➔Section 1. KRS 336.130 is amended to read as follows:

- (1) Employees may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employees, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes, *except that no public employee, collectively or individually, may engage in a strike or a work stoppage. Nothing in Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of this Act shall be construed as altering, amending, granting, or removing the rights of public employees to associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare.*
- (2) Neither employers or their agents nor employees or associations, organizations or groups of employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.
- (3) (a) *Notwithstanding subsection (1) of this section or any provision of the Kentucky Revised Statutes to the contrary, no employee shall be required, as a condition of employment or continuation of employment, to:*
 1. *Become or remain a member of a labor organization;*
 2. *Pay any dues, fees, assessments, or other similar charges of any kind or amount to a labor organization; or*
 3. *Pay to any charity or other third party, in lieu of these payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges required of a labor organization.*

(b) *As used in this subsection, the term "employee" means any person employed by or suffered or permitted to work for a public or private employer.*
- (4) *The secretary of the Labor Cabinet or his or her representative shall investigate complaints of violations or threatened violations of subsection (3) of this section and may initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor and ensure effective enforcement.*
- (5) Except in instances where violence, personal injury, or damage to property have occurred and such occurrence is supported by an affidavit setting forth the facts and circumstances surrounding such incidents, the employees and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held, unless the employees or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.
- ~~(6)(4)~~ Submission of a false affidavit concerning violence, personal injury, or damage to property shall constitute a violation of KRS 523.030. In the absence of any such affidavit alleging violence, personal injury, or damage injunctions shall be issued only by a Circuit Judge or other justice or judge acting as a Circuit Judge pursuant to law.

➔Section 2. KRS 336.180 is amended to read as follows:

As used in *this chapter* ~~[KRS 336.190 and 336.200]~~, unless the context requires otherwise: ~~[;]~~

- (1) The term "labor organization" means any organization of any kind, or any agency or employee representation committee, *association* or *union* ~~[plan, in which employees participate and]~~ which exists for the purpose, in whole or in part, of dealing with employers concerning ~~[grievances, labor disputes,]~~ wages, rates of pay, hours of employment or conditions of work, *or other forms of compensation;* ~~[;]~~
- (2) *The term "employer" means all persons, firms, associations, corporations, public employers, public school employers, and public colleges, universities, institutions, and education agencies; and*

- (3) *The term "public employee" means an employee of a "public agency" as that term is defined in KRS 61.870(1).*

➔Section 3. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, the person shall forfeit his or her office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
 - (a) Any person who violates KRS 336.110 *or Section 1 of this Act* shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);
 - (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense; and
 - (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.
- (3) *Any labor organization, employer, or other person who directly or indirectly violates subsection (3) of Section 1 of this Act shall be guilty of a Class A misdemeanor.*
- (4) *Any person aggrieved as a result of any violation or threatened violation of subsection (3) of Section 1 of this Act may seek abatement of the violation or threatened violation by petitioning a court of competent jurisdiction for injunctive relief and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.*
- (5) *Any person injured as a result of any violation or threatened violation of subsection (3) of Section 1 of this Act may recover all damages resulting from the violation or threatened violation and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer which violates an employee's rights as set forth in subsection (3) of Section 1 of this Act shall be unlawful and void, except that subsection (3) of Section 1 of this Act shall not apply to:

- (1) *Employers and employees covered by the Federal Railway Labor Act;*
- (2) *Federal employers and employees;*
- (3) *Employers and employees on exclusive federal enclaves;*
- (4) *Employers and employees where it would conflict or be preempted by federal law; or*
- (5) *Any agreement between employers and employees or labor organization entered into before the effective date of this Act, but the provisions of subsection (3) of Section 1 of this Act shall apply to any new contract or an extension or renewal of any existing agreement entered into on or after the effective date of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

A public employer or a labor organization representing public employees shall not deduct membership dues of an employee organization, association, or union from the wages, earnings, or compensation of a public employee without the express written consent of the public employee. This consent shall be made prior to any deductions being made and may be revoked by the public employee at any time by written notice to the employer.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city, county, consolidated local government, urban-county government, charter county government, or unified local government shall not have the authority to adopt or enforce any ordinance, policy, or resolution that is in conflict with Section 1 of this Act.

➔Section 7. KRS 67A.6904 is amended to read as follows:

- (1) *Except as provided in Section 1 of this Act, urban-county governments and their representatives and agents are prohibited from:*

- (a) Interfering, restraining, or coercing police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the rights guaranteed in KRS 67A.6902;
 - (b) Dominating or interfering with the formation, existence, or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization~~;~~ ~~provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;~~
 - (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations and their agents are prohibited from:
- (a) Restraining or coercing:
 - 1. Police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the right guaranteed in KRS 67A.6902; and
 - 2. An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or
 - (b) Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers, firefighter personnel, firefighters, or corrections personnel in an appropriate unit.
- (3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

➔Section 8. KRS 67C.406 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act,*** consolidated local governments, their representatives, or their agents are prohibited from:
- (a) Interfering, restraining, or coercing police officers in the exercise of the rights guaranteed in KRS 67C.402;
 - (b) Dominating or interfering with the formation, existence, or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization~~;~~ ~~provided that nothing in this section, or in any other statute of this state, shall preclude a consolidated local government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;~~
 - (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations or their agents are prohibited from:
- (a) Restraining or coercing:
 - 1. Police officers in the exercise of the right guaranteed in KRS 67C.402; and

2. A consolidated local government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or
- (b) Refusing to bargain collectively in good faith with a consolidated local government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit.
- (3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

➔Section 9. KRS 70.262 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act,*** in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.
- (2) ***Except as provided in Section 1 of this Act,*** in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

➔Section 10. KRS 78.470 is amended to read as follows:

Except as provided in Section 1 of this Act, in any county in the Commonwealth of Kentucky, which has a population of 300,000 or more and which has adopted the merit system, the county employees in the classified service as police may organize, form, join or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through representatives of their own free choice. Such employees shall also have the right to refrain from any or all such activities. Strikes by said members of any such collective bargaining unit shall be prohibited at any time.

➔Section 11. KRS 78.480 is amended to read as follows:

Except as provided in Section 1 of this Act, in any county in the Commonwealth of Kentucky which has a population of 300,000 or more and which has adopted the merit system for its police force, the fiscal court may contract with representatives of the police employed by said county with respect to wages, hours, terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the fiscal court and representatives of the police. The fiscal court shall not be required to bargain over matters of inherent managerial policy.

➔Section 12. KRS 345.050 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act,*** public employers, their representatives or their agents are prohibited from:
 - (a) Interfering, restraining or coercing firefighters in the exercise of the rights guaranteed in KRS 345.030;
 - (b) Dominating or interfering with the formation, existence or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization~~}; provided, that nothing in this chapter, or in any other statute of this state, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or on the effective date of such agreement, whichever is the later};~~

- (d) Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations or their agents are prohibited from:
- (a) Restraining or coercing:
 - 1. Firefighters in the exercise of the right guaranteed in subsection (1) of KRS 345.030, and
 - 2. A public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;
 - (b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this chapter as the exclusive representative of firefighters in an appropriate unit.
- (3) For the purposes of this chapter, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

➔Section 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 14. Whereas it is critical to the economy and citizens of Kentucky to attract new business and investment into the Commonwealth as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

➔Section 15. This Act may be cited as the "Kentucky Right to Work Act."

Signed by Governor January 9, 2017.

CHAPTER 2

(HB 2)

AN ACT relating to full disclosure in public safety and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) *"Ascultate" means to examine by listening for sounds made by internal organs of the fetus, specifically for a fetal heartbeat, utilizing an ultrasound transducer or a fetal heart rate monitor;*
- (b) *"Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor a developing fetus; and*
- (c) *"Qualified technician" means a medical imaging technologist as defined in KRS 311B.020 who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography or a nurse midwife or advance practice nurse practitioner in obstetrics with certification in obstetrical ultrasonography.*

(2) Prior to a woman giving informed consent to having any part of an abortion performed, the physician who is to perform the abortion or a qualified technician to whom the responsibility has been delegated by the physician shall:

- (a) *Perform an obstetric ultrasound on the pregnant woman;*
 - (b) *Provide a simultaneous explanation of what the ultrasound is depicting, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted and also, if the ultrasound image indicates that fetal demise has occurred, inform the woman of that fact;*
 - (c) *Display the ultrasound images so that the pregnant woman may view the images;*
 - (d) *Ascultate the fetal heartbeat of the unborn child so that the pregnant woman may hear the heartbeat if the heartbeat is audible;*
 - (e) *Provide a medical description of the ultrasound images, which shall include the dimensions of the embryo or fetus and the presence of external members and internal organs, if present and viewable; and*
 - (f) *Retain in the woman's medical record a signed certification from the pregnant woman that she has been presented with the information required to be provided under paragraphs (c) and (d) of this subsection and has viewed the ultrasound images, listened to the heartbeat if the heartbeat is audible, or declined to do so. The signed certification shall be on a form prescribed by the cabinet.*
- (3) *When the ultrasound images and heartbeat sounds are provided to and reviewed with the pregnant woman, nothing in this section shall be construed to prevent the pregnant woman from averting her eyes from the ultrasound images or requesting the volume of the heartbeat be reduced or turned off if the heartbeat is audible. Neither the physician, the qualified technician, nor the pregnant woman shall be subject to any penalty if the pregnant woman refuses to look at the displayed ultrasound images or to listen to the heartbeat if the heartbeat is audible.*
- (4) *The requirements of this section shall be in addition to any requirement contained in KRS 311.725 or any other section of KRS 311.710 to 311.820.*
- (5) *The provisions of this section shall not apply in the case of a medical emergency or medical necessity. If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the requirements of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.*

➔Section 2. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11) (a)
 - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
 - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates KRS 311.905(3) shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).
- (30) (a) *Any physician or qualified technician who violates Section 1 of this Act shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.*
- (b) *In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.*

➔Section 3. Sections 1 and 2 of this Act shall be known and may be cited as the Ultrasound Informed Consent Act.

➔Section 4. Whereas ultrasound requirements serve an essential medical purpose in confirming the presence, location, and gestational age of a pregnancy, and whereas the knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between the two alternatives of giving birth or having an abortion, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor January 9, 2017.

CHAPTER 3

(HB 3)

AN ACT relating to prevailing wage and declaring an emergency.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

- (1) The Governor.
- (2) Lieutenant Governor.

- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.

- (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.

3. Division of Water.
4. Division of Environmental Program Support.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.

2. Division of Incentives and Development.
3. Division of Veterinary Services.
4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.

1. Division of Employment Standards, Apprenticeship, and Mediation.
2. Division of Occupational Safety and Health Compliance.
3. Division of Occupational Safety and Health Education and Training.
4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) ~~{Prevailing Wage Review Board.~~
- ~~(j) — {Apprenticeship and Training Council.~~
- ~~(j){(k)}~~ State Labor Relations Board.
- ~~(k){(l)}~~ Employers' Mutual Insurance Authority.
- ~~(l){(m)}~~ Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.

- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.

- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.

11. Division of Resort Parks.
12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.

- (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
 - (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 99.480 is amended to read as follows:

Before the agency enters into any contracts for work of demolition, grading, clearing or construction of utilities or other facilities or site improvements, it shall satisfy all requirements of the law, applicable to similar contracts of the community, relating to the advertisement and acceptance of bids, execution of bonds, and award of contracts. ~~[The agency shall also attach to and make a part of the specifications for a contract for said work, a schedule of prevailing wages, and shall conform to all of the requirements of KRS 337.510 to 337.540, inclusive.]~~

➔Section 3. KRS 227.487 is amended to read as follows:

Except where other rules are adopted by a city or county, the following reporting and fee requirements shall apply to electrical inspections of residential buildings and single-family dwellings:

- (1) The inspector shall complete a report for each inspection. One (1) copy of the report shall be given to the owner of the electrical installation or his representative at the time the inspection fees are paid. A second copy of the report shall be sent to the Department of Housing, Buildings and Construction no later than one (1) week after the inspection is completed. The report shall include, but is not limited to, the following:
 - (a) The address of the dwelling inspected;
 - (b) The number of rooms, number of receptacles and number of switch boxes inspected;
 - (c) Number of code violations, if any;
 - (d) A description of each code violation, and recommended change to correct the violation;
 - (e) The date and time of day the inspection commenced;
 - (f) The time, in hours and minutes, required for the inspection;
 - (g) The number of miles and hours and minutes of travel time incurred by the inspector for that inspection, if mileage and travel charges are added to the inspection fee;
 - (h) The amount charged for the inspection, separated into an amount for mileage, if any, and the amount for travel time, if any, and the amount charged for the actual inspection.
- (2) The maximum inspection fee shall be an amount equal to the ~~wage paid to a majority of~~ ~~prevailing wage for a~~ master ~~electricians~~ ~~electrician~~ in the region in which the inspection is made, multiplied by the time required to conduct the inspection. This rate shall not be applied to travel time to and from the inspection.
- (3) An inspector may charge, in addition to the inspection fee, an amount for necessary travel to and from the inspection site. The mileage rate charged shall not exceed the amount per mile allowed to state employees, and the inspector shall charge no more than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are made during one (1) trip, then the cost of travel shall be divided between the inspections made. In no case shall an inspector charge more than once for the same trip, or charge for mileage or time not actually expended.
- (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety satisfactory to the Department of Housing, Buildings and Construction.
- (5) The Department of Housing, Buildings and Construction shall design reporting forms which meet the requirements of subsection (1) of this section, and provide these forms to electrical inspectors. The department shall adopt regulations to administer the requirements of this section.
- (6) Nothing in this section is intended to limit the right of cities or counties to set fees or adopt rules for electrical inspections which are different from those specified in subsections (1), (2), (3) or (4) of this section.

➔Section 4. KRS 336.015 is amended to read as follows:

- (1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the Department of Labor.
- (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of Workers' Claims, and the Department of Workplace Standards.
- (3) The following agencies are attached to the cabinet for administrative purposes only:
 - (a) Kentucky Labor-Management Advisory Council;
 - (b) Kentucky Occupational Safety and Health Review Commission;

- (c) State Labor Relations Board;
- (d) Workers' Compensation Funding Commission;
- (e) Occupational Safety and Health Standards Board;
- (f) ~~Prevailing Wage Review Board;~~
- ~~(g)~~ Apprenticeship and Training Council;
- ~~(g)~~~~(h)~~ Employers' Mutual Insurance Authority;
- ~~(h)~~~~(i)~~ Office of General Administration and Program Support for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet. The office is composed of the following divisions:
 - 1. Division of Human Resource Management;
 - 2. Division of Fiscal Management;
 - 3. Division of Budgets; and
 - 4. Division of Information Services; and
- ~~(i)~~~~(j)~~ Office of Inspector General for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet.

➔Section 5. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) "Department" means the Department of Workplace Standards in the Labor Cabinet;
 - (c)
 - 1. "Wages" includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
 - 2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210(5), "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210(6), "wages" shall include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 - 1. Any individual employed in agriculture;
 - 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his or her employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community board for mental health or individuals with an intellectual disability established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care;
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.

~~{(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:~~

- ~~(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the~~

~~requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;~~

- ~~(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;~~
- ~~(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and~~
- ~~2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he or she shall not designate less than an entire county as a locality;~~
- ~~(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and~~
- ~~(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.~~
- ~~(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.]~~

➔ Section 6. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

- (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.
- (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.
- (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.

- (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation.
- (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and each day that the failure continues shall be deemed a separate offense.
- (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or the commissioner's authorized representative in the performance of his or her duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or the commissioner's authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his or her employer, to the commissioner, or to the commissioner's authorized representative that he or she has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) ~~Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).~~
- (12) ~~Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he or she is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his or her name or in the name of any other company, firm, or other entity in which he or she might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.~~
- (13) ~~Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.~~
- (14) ~~A person shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:~~
 - (a) Made any complaint to his or her employer, the commissioner, or any other person; or
 - (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or
 - (c) Testified, or is about to testify, in any such proceedings.

➔Section 7. KRS 337.420 is amended to read as follows:

- (1) "Employee" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.
- (2) "Employer" means a person who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.
- (3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.990(11)(14).
- (4) "Employ" includes to suffer or permit to work.
- (5) "Occupation" includes any industry, trade, business, or branch thereof, or any employment or class of employment.
- (6) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet.
- (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

➔Section 8. KRS 337.423 is amended to read as follows:

- (1) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he or she pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to 337.433 and 337.990(11)(14) shall apply to any employer who is subject to the federal Fair Labor Standards Act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.990(11)(14) and when the employer files with the commissioner of the Department of Workplace Standards a statement that the employer is covered by the federal Fair Labor Standards Act of 1938, as amended.
- (2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.990(11)(14) shall not, in order to comply with it, reduce the wage rates of any employee.
- (3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of KRS 337.420 to 337.433 and 337.990(11)(14).
- (4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.990(11)(14).

➔Section 9. KRS 337.425 is amended to read as follows:

- (1) For this purpose, the commissioner, or the commissioner's authorized representative, may enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him or her are engaged, to question such persons, and to obtain other information necessary to the administration and enforcement of KRS 337.420 to 337.433 and 337.990(11)(14).
- (2) The commissioner or the commissioner's authorized representative may examine witnesses under oath, and require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and 337.990(11)(14). If a person fails to attend, testify or produce documents under or in response to a subpoena, the Circuit Court in the judicial circuit where the hearing is being held, on application of the commissioner or the commissioner's representative, may issue an order requiring the person to appear before the commissioner or the commissioner's authorized representative, or to produce documentary evidence, and any failure to obey the order of the court may be punished by the court as contempt.
- (3) The commissioner may endeavor to eliminate pay practices unlawful under KRS 337.420 to 337.433 and 337.990(11)(14) by informal methods of conference, conciliation and persuasion, and supervise the payment of wages owing to any employee under KRS 337.420 to 337.433 and 337.990(11)(14).

- (4) The commissioner may issue regulations not inconsistent with the purpose of KRS 337.420 to 337.433 and 337.990~~(11)(14)~~, necessary or appropriate to carry out its provisions.

➔Section 10. KRS 337.427 is amended to read as follows:

- (1) Any employer who violates the provisions of KRS 337.423 shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.
- (2) Action to recover the liability may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself, herself, or themselves and other employees similarly situated. The court in the action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.
- (3) An agreement by any employee to work for less than the wage to which the employee is entitled under KRS 337.420 to 337.433 and 337.990~~(11)(14)~~ shall not be a bar to any such action, or to a voluntary wage restitution of the full amount due under KRS 337.420 to 337.433 and 337.990~~(11)(14)~~.
- (4) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under KRS 337.420 to 337.433 and 337.990~~(11)(14)~~, the commissioner may bring any legal action necessary in behalf of the employee to collect the claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with the action. The commissioner shall have power to join various claims against the employer in one (1) cause of action.
- (5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of KRS 337.420 to 337.433 and 337.990~~(11)(14)~~.
- (6) The commissioner may on his or her own motion petition any court of competent jurisdiction to restrain violations of KRS 337.423, and petition for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433 and 337.990~~(11)(14)~~.

➔Section 11. KRS 337.430 is amended to read as follows:

Court action under KRS 337.420 to 337.433 and 337.990~~(11)(14)~~ may be commenced no later than six (6) months after the cause of action occurs.

➔Section 12. KRS 337.433 is amended to read as follows:

Every person subject to KRS 337.420 to 337.433 and 337.990~~(11)(14)~~ shall keep an abstract or copy of KRS 337.420 to 337.433 and 337.990~~(11)(14)~~ posted in a conspicuous place in or about the premises where any employee is employed. Employers shall be furnished copies or abstracts of KRS 337.420 to 337.433 and 337.990~~(11)(14)~~ by the state on request without charge.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city, county, consolidated local government, urban-county government, charter county government, or unified local government shall not have the authority to require any employer to pay to an employee a certain wage or fringe benefit other than as determined by the employer.

➔Section 14. The following KRS sections are repealed:

- 337.505 Definition of "prevailing wage" -- Fringe benefits included.
- 337.510 Public authority's duties as to inclusion of prevailing wage in proposals and contracts.
- 337.512 Duties of individual officers with respect to prevailing wage law.
- 337.520 Determination of prevailing wages -- Administrative regulations -- Filing wage contract.
- 337.522 Hearings -- Publication of determination -- Revisions -- Prevailing wage review boards attached to Labor Cabinet for administrative purposes.
- 337.524 Which rates to apply while review is pending.
- 337.525 Judicial review.
- 337.530 Contractor to pay prevailing wages and post rates -- Payroll records -- On-site inspections.
- 337.540 Limitation of working hours -- Exceptions -- Overtime.

337.548 Injunction of violation of prevailing wage law.

337.550 Department to aid in enforcement -- Remedies of laborer.

➔Section 15. The repeal of prevailing wage requirements for public works projects in this Act applies to any public works project or portion thereof for which bids have not yet been awarded as of the effective date of this Act. For bids that have been requested but not awarded prior to the effective date of this Act, the public authority may elect to request a resubmission of bids to conform to the provisions of this Act.

➔Section 16. Whereas immediate steps need to be undertaken to control the costs of public construction projects, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor January 9, 2017.

CHAPTER 4

(SB 3)

AN ACT relating to the disclosure of public retirement information and declaring an emergency.

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

➔Section 1. KRS 61.661 is amended to read as follows:

- (1) (a) Each current, former, or retired member's account shall be administered in a confidential manner, and specific data regarding a current, former, or retired member shall not be released for publication, *except that*:
 1. ~~[unless authorized by]~~ The member *or recipient may authorize the release of his or her account information;* ~~[however,]~~
 2. ***Kentucky Retirement Systems*** ~~[The system]~~ may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; *or*
 3. a. *Upon request by any person, the systems shall release the following information from the accounts of any member or retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, if the member or retired member was a current or former officeholder in the Kentucky General Assembly:*
 - i. *The first and last name of the member or retired member;*
 - ii. *The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;*
 - iii. *The status of the member or retired member, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, or a retired member who has returned to work following retirement with an agency participating in the systems;*
 - iv. *If the individual is a retired member, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;*
 - v. *If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year; and*
 - vi. *The current employer or last participating employer of the member or retired member, if applicable.*

- b. No information shall be disclosed under this subparagraph from an account that is paying benefits to a beneficiary due to the death of a member or retired member.**
- (b) ~~A~~~~The~~ current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.
- (c) **The release of information under paragraph (a)3. of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.**
- (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems unless, after the production of documents or affidavit, a separate subpoena is served upon the systems specifically directing the testimony of an employee of the systems. When a subpoena is served on any employee of the systems requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems may designate an employee to be deposed upon the matter referred to in the subpoena.
- (b)~~(3)~~ The certification **required by this subsection** shall be signed before a notary public by the employee and shall include the full name of the member **or recipient**, the member's **or recipient's** Social Security number, and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiche records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."
- (c)~~(4)~~ When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.
- (d)~~(5)~~ When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.
- (e)~~(6)~~ Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this ~~subsection~~**section**.
- ➔Section 2. KRS 161.585 is amended to read as follows:
- (1) ~~For purposes of this section, the term "records" shall include retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.~~
- (2) ~~Each member's or annuitant's account shall be administered in a confidential manner, and specific data regarding a member or annuitant shall not be released for publication, except that: unless authorized by~~
- (a) The member **or annuitant may authorize the release of his or her account information;**~~however,~~
- (b) The board of trustees may release member **or annuitant** account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; **or**
- (c) 1. **Upon request by any person, the system shall release the following information from the accounts of any member or annuitant of the Kentucky Teachers' Retirement System, if the member or annuitant was a current or former officeholder in the Kentucky General Assembly:**

- a. *The first and last name of the member or annuitant;*
 - b. *The status of the member or annuitant, including but not limited to whether he or she is a contributing member, a member who is not contributing but has not retired, a retiree receiving a monthly retirement allowance, or a retiree who has returned to work following retirement with an agency participating in the system;*
 - c. *If the individual is an annuitant, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;*
 - d. *If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit and final average salary at the end of the most recently completed fiscal year; and*
 - e. *The current or last participating employer of the member or annuitant, if applicable.*
 2. *No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or annuitant.*
- (2) *The release of information under subsection (1)(c) of this section shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.*
- (3) Medical records which are included in a member's *or annuitant's* file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member *or annuitant* in writing or as otherwise provided by law or in response to a lawful subpoena or order issued by a court of law.
- (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers' Retirement System requiring the production of any data, information, or records, it is sufficient if the employee of the Kentucky Teachers' Retirement System charged with the responsibility of being custodian of the original, or his or her designated staff, delivers within five (5) working days by certified mail or by personal delivery to the person specified in the subpoena either of the following:
1. Legible and durable copies of records certified by the employee or designated staff; or
 2. An affidavit stating the information required by the subpoena.
- (b) The production of records or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Teachers' Retirement System unless, after the production of records or an affidavit, a separate subpoena is served upon the retirement system specifically directing the testimony of an employee of the retirement system. When a subpoena is served on any employee of the retirement system requiring the employee to give testimony or produce records for any purpose, in the absence of a court order requiring the testimony of or production of records by a specific employee, the system may designate an employee to give testimony or produce records upon the matter referred to in the subpoena. The board of trustees may promulgate an administrative regulation for the recovery of reasonable travel and administrative expenses for those occasions when an employee of the retirement system is required to travel from his or her home or office to provide testimony or records. Recoverable expenses may include the wages, salary, and overtime paid to the employee by the retirement system for the period of time that the employee is away from the office. The cost of these expenses shall be borne by the party issuing the subpoena compelling the employee's travel. The board of trustees may also promulgate an administrative regulation establishing a reasonable fee for the copying, compiling, and mailing of requested records.
- (c)~~(5)~~ The certification *required by this subsection* shall be signed before a notary public by the employee and shall include the full name of the member *or annuitant*, the member *or annuitant* identification number assigned to the member *or annuitant* by the retirement system, and a legend substantially to the following effect: "The records are true and complete reproductions of the original, microfiche, or electronically stored records which are housed in the retirement system's office. This certification is given in lieu of the undersigned's personal appearance."
- (d)~~(6)~~ When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove receipt of the affidavit or copies of records.

~~(e)(7)~~ When the affidavit or copies of records are delivered to a party for use in deposition they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.

~~(f)(8)~~ Upon completion of delivery by the retirement system of copies of records by their deposit in the mail or by their personal delivery to the requesting party, the retirement system shall cease to have any responsibility or liability for the records and their continued maintenance in a confidential manner.

~~(g)(9)~~ Records of the Kentucky Teachers' Retirement System that are susceptible to reproduction may be proved as to foundation, identity, and authenticity without preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this ~~subsection~~~~section~~.

~~(h)(10)~~ The provisions of this ~~subsection~~~~section~~ shall not be construed to prohibit the Kentucky Teachers' Retirement System from asserting any exemption, exception, or relief provided under the Kentucky Rules of Civil Procedure or other applicable law.

- (5) ***For purposes of this section, "records" includes retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.***

➔Section 3. KRS 21.540 is amended to read as follows:

- (1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.
- (2)
 - (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.
 - (b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
 1. Solely by the participant;
 2. Solely by the alternate payee; or
 3. Equally shared by the participant and alternate payee.
 - (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
 1. Is issued by a court or administrative agency; and
 2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.
- (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).
- (4) The Judicial Form Retirement System shall make available on a public Web site, a listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a Web site established by the executive or judicial

branch to inform the public about executive or judicial branch agency expenditures and public employee salaries and wages. Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

- (5) No trustee or employee of the board shall:
- (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;
 - (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;
 - (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;
 - (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or
 - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 - 1. A trustee from serving as a judge or member of the General Assembly; or
 - 2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.
- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.
- (7) (a) 1. *Upon request by any person, the Judicial Form Retirement System shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or the Judicial Retirement Plan, if the member or retiree was a current or former officeholder in the Kentucky General Assembly:*
- a. *The first and last name of the member or retiree;*
 - b. *The plan or plans in which the member has an account or from which the retiree is receiving a monthly retirement allowance;*
 - c. *The status of the member or retiree, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;*
 - d. *If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and*
 - e. *If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final*

compensation, and accumulated account balance at the end of the most recently completed fiscal year.

2. *No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.*
- (b) *The release of information under paragraph (a) of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.*

➔Section 4. Whereas ensuring the public disclosure of the state retirement information relating to any current or former officeholder of the General Assembly is important to the taxpayers of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor January 9, 2017.

CHAPTER 5

(SB 5)

AN ACT relating to abortion and declaring an emergency.

WHEREAS, pain receptors or nociceptors are present in an unborn child's entire body no later than 16 weeks after fertilization and nerves link these receptors to the brain's thalamus and subcortical plate by no later than 20 weeks; and

WHEREAS, by eight weeks after fertilization, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example, by recoiling; and

WHEREAS, in the unborn child, application of painful stimuli is associated with significant increases in stress hormones known as the stress response; and

WHEREAS, subjection to painful stimuli is associated with long-term harmful neuro-developmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life; and

WHEREAS, for the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without the anesthesia; and

WHEREAS, the position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than 20 weeks after fertilization, which point in the pregnancy is generally consistent with 22 weeks following the woman's last menstrual cycle, predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain; and

WHEREAS, substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain; and

WHEREAS, in adults, stimulation or ablation of the cerebral cortex does not alter pain perception while stimulation or ablation of the thalamus does; and

WHEREAS, substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing; and

WHEREAS, consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain 20 weeks after fertilization; and

WHEREAS, it is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Fertilization" means the fusion of a human spermatozoon with a human ovum;*
- (2) *"Medical emergency" means a condition that in the physician's reasonable medical judgment, based upon the facts known to the physician at that time, so complicates the woman's pregnancy as to necessitate the immediate performance or inducement of an abortion in order to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman that delay in the performance or inducement of the abortion would create;*
- (3) *"Pain-capable unborn child" means an unborn child of a probable post-fertilization age of twenty (20) weeks or more;*
- (4) *"Physician" has the same meaning as in KRS 311.720;*
- (5) *"Post-fertilization age" means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum;*
- (6) *"Probable post-fertilization age" means, in reasonable medical judgment and with reasonable probability, the age of the unborn child, as calculated from fertilization, at the time the abortion is performed or induced or attempted to be performed or induced;*
- (7) *"Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;*
- (8) *"Serious risk of the substantial and irreversible impairment of a major bodily function" means any medically diagnosed condition that so complicates the pregnancy of the woman as to directly or indirectly cause the substantial and irreversible impairment of a major bodily function. A medically diagnosed condition that constitutes a "serious risk of the substantial and irreversible impairment of a major bodily function" includes pre-eclampsia, inevitable abortion, and premature rupture of the membranes, but does not include a condition related to the woman's mental health; and*
- (9) *"Unborn child" means an individual organism of the species homo sapiens from fertilization until live birth.*

➔SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall intentionally perform or induce or intentionally attempt to perform or induce an abortion on a pregnant woman when the probable post-fertilization age of the unborn child is twenty (20) weeks or greater.*
- (2) *It shall be an affirmative defense to a charge under subsection (1) of this section that the abortion was intentionally performed or induced or intentionally attempted to be performed or induced by a physician and that the physician determined, in the physician's reasonable medical judgment, based on the facts known to the physician at that time, that either of the following applied:*
 - (a) *The probable post-fertilization age of the unborn child was less than twenty (20) weeks; or*
 - (b) *The abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. No abortion shall be necessary if it is based on a claim or diagnosis that the pregnant woman will engage in conduct that would result in her death or in substantial and irreversible impairment of a major bodily function or if it is based on any reason related to her mental health.*
- (3) (a) *Except when a medical emergency exists that prevents compliance with Section 3 of this Act, the affirmative defense set forth in subsection (2)(a) of this section does not apply unless the physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion makes a determination of the probable post-fertilization age of the unborn child as required by subsection (1) of Section 3 of this Act or relied upon such a determination made by another physician and certifies in writing, based on the results of the tests performed, that in the physician's reasonable medical judgment the unborn child's probable post-fertilization age is less than twenty (20) weeks.*

- (b) *Except when a medical emergency exists that prevents compliance with one or more of the following conditions, the affirmative defense set forth in subsection (2)(b) of this section does not apply unless the physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion complies with all of the following conditions:*
1. *The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion certifies in writing that, in the physician's reasonable medical judgment, based on the facts known to the physician at that time, the abortion is necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;*
 2. *A different physician not professionally related to the physician described in subparagraph 1. of this paragraph certifies in writing that, in that different physician's reasonable medical judgment, based on the facts known to that different physician at that time, the abortion is necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;*
 3. *The physician intentionally performs or induces or intentionally attempts to perform or induce the abortion in a hospital or other health care facility that has appropriate neonatal services for premature infants;*
 4. *The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician determines, in the physician's reasonable medical judgment, based on the facts known to the physician at that time, that the termination of the pregnancy in that manner poses a greater risk of death of the pregnant woman or a greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion;*
 5. *The physician certifies in writing the available method or techniques considered and the reasons for choosing the method or technique employed; and*
 6. *The physician who intentionally performs or induces or intentionally attempts to perform or induce the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced or attempted to be performed or induced at least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.*
- (4) *The state board of medical licensure shall revoke a physician's license to practice medicine in this state if the physician violates or fails to comply with this section.*
- (5) *Any physician who intentionally performs or induces or intentionally attempts to perform or induce an abortion on a pregnant woman with actual knowledge that neither of the affirmative defenses set forth in subsection (2) of this section applies, or with a heedless indifference as to whether either affirmative defense applies, is liable in a civil action for compensatory and punitive damages and reasonable attorney's fees to any person, or the representative of the estate of any person including but not limited to an unborn child, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion. In any action under this subsection, the court also may award any injunctive or other equitable relief that the court considers appropriate.*
- (6) *A pregnant woman on whom an abortion is intentionally performed or induced or intentionally attempted to be performed or induced in violation of subsection (1) of this section is not guilty of violating subsection (1) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (1) of this section.*

➔SECTION 3. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

- (1) *Except in a medical emergency that prevents compliance with this section, no physician shall intentionally perform or induce or intentionally attempt to perform or induce an abortion on a pregnant woman unless, prior to the performance or inducement of the abortion or the attempt to perform or induce the abortion, the physician determines, in the physician's reasonable medical judgment, the unborn child's probable post-fertilization age. The physician shall make that determination after making inquiries of the pregnant*

woman and performing any medical examinations or tests of the pregnant woman the physician considers necessary as a reasonably prudent physician, knowledgeable about the case and medical conditions involved, would consider necessary to determine the unborn child's probable post-fertilization age.

- (2) *Except in a medical emergency that prevents compliance with this section, no physician shall intentionally perform or induce or intentionally attempt to perform or induce an abortion on a pregnant woman after the unborn child reaches the probable post-fertilization age of twenty (20) weeks without first entering the determination made in subsection (1) of this section and the associated findings of the medical examination and tests in the medical record of the pregnant woman.*
- (3) *The state board of medical licensure shall suspend a physician's license to practice medicine in this state for a period of not less than six (6) months if the physician violates this section.*

➔SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*

- (a) *"Conduct" means the:*

1. *Filing of a civil action;*
 2. *Assertion of a claim, defense, or other position in connection with a civil action;*
 3. *Filing of a pleading, motion, or other document in a civil action, including but not limited to a motion filed for discovery purposes; or*
 4. *Taking of any other action in connection with a civil action; and*

- (b) *"Frivolous conduct" means the conduct of a party to a civil action or a party's counsel of record in a civil action that:*

1. *Obviously serves merely to harass or maliciously injure another party to the civil action or is for another improper purpose, including but not limited to causing unnecessary delay or a needless increase in the cost of litigation;*
 2. *Is not warranted under existing law, cannot be supported by a good-faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good-faith argument for the establishment of new law;*
 3. *Consists of allegations or other factual contentions that have no evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or*
 4. *Consists of denials or other factual contentions that are not warranted by the evidence or, if specifically so identified, are not reasonably based on a lack of information or belief.*

- (2) *Any woman upon whom an abortion has been performed in violation of Section 2 of this Act, or the father of the unborn child who was the subject of such an abortion, may commence a civil action against the person who intentionally violated Section 2 of this Act for actual and punitive damages, court costs, and reasonable attorney's fees.*
- (3) *If a judgment is rendered in favor of the defendant in a civil action commenced pursuant to subsection (2) of this section and the court finds that the civil action constitutes frivolous conduct and that the defendant was adversely affected by the frivolous conduct, the court shall award reasonable attorney's fees to the defendant.*

➔SECTION 5. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky pain-capable unborn child protection litigation fund is created as a trust fund. The trust fund shall consist of appropriations, donations, gifts, or grants made to the fund and shall be used by the state to pay for any costs or expenses incurred by the state in relation to actions surrounding the defense of Sections 1 to 6, 7, 8, 9, and 10 of this Act. Funds shall be distributed as directed by the Finance and Administration Cabinet.*
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the trust fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earned on the trust fund shall be credited to the trust fund.*

(4) *Moneys in the trust fund are hereby appropriated for the purposes set forth in subsection (1) of this section.*

➔SECTION 6. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 6, 7, 8, 9, and 10 of this Act shall not be construed to repeal, by implication or otherwise, any law regulating or restricting abortion. An abortion that complies with Sections 1 to 6, 7, 8, 9, and 10 of this Act but violates any otherwise applicable provision of state law shall be deemed unlawful as provided in such provision. An abortion that complies with the provisions of state law regulating or restricting abortion but violates the provisions of Sections 1 to 6, 7, 8, 9, and 10 of this Act shall be deemed unlawful as provided in those sections. If some or all of the provisions of Sections 1 to 6, 7, 8, 9, and 10 of this Act are temporarily or permanently restrained or enjoined by judicial order, all other provisions of state law regulating or restricting abortion shall be enforced as though such restrained or enjoined provisions had not been adopted. But, whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

➔Section 7. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or reregistration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

- (1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;
- (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;
- (3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion;
- (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor under the laws;
- (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;
- (6) Become addicted to a controlled substance;
- (7) Become a chronic or persistent alcoholic;
- (8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;
- (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;
- (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;
- (11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;
- (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;
- (13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;
- (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

- (15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;
- (16) Willfully violated a confidential communication;
- (17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;
- (18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;
- (19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;
- (20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action;~~or~~
- (21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; **or**
- (22) ***Failed to comply with the requirements of Sections 2, 3, or 9 of this Act or failed to submit to the Vital Statistics Branch in accordance with a court order a complete report as described in Section 9 of this Act.***

➔Section 8. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11) (a)
 - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) ***Except as provided in subsection (6) of Section 2 of this Act, any person who intentionally violates Section 2 of this Act shall be guilty of a Class D felony.***
- (20) ***Any person who violates subsection (1) of Section 3 of this Act shall be guilty of a Class B misdemeanor.***
- (21) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- ~~(22)(20)~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- ~~(23)(21)~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- ~~(24)(22)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

- (25)~~((23))~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (26)~~((24))~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (27)~~((25))~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (28)~~((26))~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (29)~~((27))~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (30)~~((28))~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (31)~~((29))~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

➔Section 9. KRS 213.101 is amended to read as follows:

- (1) Each induced termination of pregnancy which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within fifteen (15) days after the end of the month in which the termination occurred. If the induced termination of pregnancy was performed outside an institution, the attending physician shall prepare and file the report within fifteen (15) days after the end of the month in which the termination occurred. ***The report shall include all the information the physician is required to certify in writing or determine under Sections 2 and 3 of this Act, but shall not include***~~The report shall collect no~~ information which will identify the physician, woman, or man involved.
- (2) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.
- (3) ***By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this section for each of the items listed in subsection (1) of this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.***
- (4) (a) ***Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in subsection (1) of this section shall be subject to a late fee of five hundred dollars (\$500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.***
- (b) ***Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in subsection (1) of this section, may in a civil action brought by the Vital Statistics Bureau be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.***
- (c) ***Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to Section 7 of this Act.***
- (5) ***Intentional falsification of any report required under this section is a Class A misdemeanor.***
- (6) ***Within ninety (90) days of the effective date of this Act, the Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.***

➔Section 10. KRS 413.140 is amended to read as follows:

- (1) The following actions shall be commenced within one (1) year after the cause of action accrued:
 - (a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;
 - (b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;
 - (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage;
 - (d) An action for libel or slander;
 - (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;
 - (f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A;
 - (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;
 - (h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;
 - (i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;
 - (j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;
 - (k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law;~~and~~
 - (l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322; **and**
 - (m) An action for violating Section 2 of this Act.**
- (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.
- (3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.
- (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.
- (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.
- (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.
- (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section, the cause of action shall be deemed to accrue on the date an appeal of the disciplinary proceeding is decided by the institutional warden.
- (8) ***In respect to the action referred to in paragraph (m) of subsection (1) of this section, the cause of action shall be deemed to accrue after the performance or inducement or attempt to perform or induce the abortion.***

➔Section 11. Whereas it is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling

pain, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor January 9, 2017.

CHAPTER 6

(SB 6)

AN ACT relating to labor organizations and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "employee" means any person employed by or suffered or permitted to work for a public or private employer, except "employee" shall not mean any person covered by the Federal Railway Labor Act and the National Labor Relations Act.*
- (2) *An employee shall not be enrolled as a member of a labor organization unless the employee has affirmatively requested membership in writing.*
- (3) *A sum shall not be withheld from the earnings of any employee for the purpose of paying union dues or other fees paid by members of a labor organization or employees who are non-members except upon the written or electronic authorization of the employee member or employee non-member.*
- (4) *The requirements in this section shall not be waived by any member or non-member of a labor organization, nor required to be waived as a condition of obtaining or maintaining employment.*
- (5) *Signing or refraining from signing the authorization set forth in subsections (2) and (3) of this section shall not be made a condition of obtaining or maintaining employment.*
- (6)
 - (a) *A labor organization shall maintain financial records substantially similar to and no less comprehensive than the records required to be maintained under 29 U.S.C. sec 431(b).*
 - (b) *These records shall be kept in a searchable electronic format and provided to every employee it represents.*
 - (c) *The records and the data or summary by which the records can be verified, explained, or clarified shall be kept for a period of not less than five (5) years.*
- (7) *This section shall not apply to any agreement between employers and employees or labor organizations entered into before the effective date of this Act, but any such agreement entered into, opted in, renewed, or extended on or after the effective date of this Act and which violates this section shall be unlawful and void.*
- (8) *This section shall be known as the "Paycheck Protection Act."*

➔Section 2. KRS 336.180 is amended to read as follows:

As used in KRS 336.190,~~and~~ 336.200, *and Section 1 of this Act*, unless the context requires otherwise, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

➔Section 3. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, the person shall forfeit his or her office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
 - (a) Any person who violates KRS 336.110 shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);

- (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense; ~~and~~
- (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation; **and**
- (d) ***Any labor organization who violates Section 1 of this Act shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.***

➔Section 4. KRS 337.060 is amended to read as follows:

- (1) No employer shall withhold from any employee any part of the wage agreed upon. This section shall not make it unlawful for an employer to withhold or divert any portion of an employee's wage when the employer is authorized to do so by local, state, or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employees or their representative ***and meet the requirements of Section 1 of this Act. However, a collective bargaining agreement entered into, opted in, renewed, or extended on or after the effective date of this Act shall not contain provisions authorizing or requiring the deduction of any portion of an employee's wages without the written consent of the employee.***
- (2) Notwithstanding the provisions of subsection (1) of this section, no employer shall deduct the following from the wages of employees:
 - (a) Fines;
 - (b) Cash shortages in a common money till, cash box or register used by two (2) or more persons;
 - (c) Breakage;
 - (d) Losses due to acceptance by an employee of checks which are subsequently dishonored if such employee is given discretion to accept or reject any check; or
 - (e) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit, or nonpayment for goods or services received by the customer if such losses are not attributable to employee's willful or intentional disregard of employer's interest.

➔Section 5. KRS 67A.6909 is amended to read as follows:

Subject to the requirements set forth in Section 1 of this Act, upon the written authorization of any police officers, firefighter personnel, firefighters, or corrections personnel within a bargaining unit, the urban-county government shall deduct from the payroll of the police officer, firefighter personnel, firefighter, or corrections personnel the monthly amount of dues as certified by the secretary of the exclusive bargaining representative, and shall deliver the same to the treasurer of the exclusive bargaining representative.

➔Section 6. KRS 67C.416 is amended to read as follows:

Subject to the requirements set forth in Section 1 of this Act, upon the written authorization of any police officers within a bargaining unit, the consolidated local government shall deduct from the payroll of the police officer the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

➔Section 7. KRS 161.158 is amended to read as follows:

- (1) (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225 to 18A.2287, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(4), board

members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.

- (b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225 to 18A.2287, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.
 - (c) If a district board of education participates in the state employee health insurance program as described in KRS 18A.225 to 18A.2287 for its active employees, all district employees who are required to be offered health insurance coverage for purposes of, and in accordance with, the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, shall be eligible for the state-funded contribution appropriated by the General Assembly for the employer's contribution for active employees' health insurance coverage.
- (2) (a) Each district board of education shall adopt policies or regulations which will provide for:
- 1.
 - a. Deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof.
 - b. The deductions shall be made from salaries earned in at least eight (8) different pay periods.
 - c. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums.
 - d. *The district board is prohibited from deducting membership dues of an employee organization, membership organization, or labor organization without the express written consent of the employee. Express written consent of the employee may be revoked in writing by the employee at any time. This provision shall apply to contracts entered into, opted in, extended or renewed on or after the effective date of this Act.*
 - e. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction; and
 - 2. Deductions from payments for the per diem and actual expenses provided under KRS 160.280(1) to members of the district board of education whenever a request is presented by a board member to the board. The deductions may be made for but not be limited to membership dues, health insurance purchases, scholarship funds, and contributions to a political action committee.
- (b) The deductions under paragraph (a)1. and 2. of this subsection shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction, provided the district has received appropriate invoices or necessary documentation.
 - (c) Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.
- (3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

➔Section 8. KRS 345.110 is amended to read as follows:

Subject to the requirements set forth in Section 1 of this Act, upon the written authorization of any firefighters within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

➔Section 9. Whereas it is critical to the economy and citizens of Kentucky to attract new business and investment into the Commonwealth as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor January 9, 2017.

CHAPTER 7

(SB 12)

AN ACT relating to public postsecondary education governance and declaring an emergency.

WHEREAS, effective governance of public postsecondary institutions is critical to the thousands of Kentucky postsecondary students and to Kentucky's economy; and

WHEREAS, the General Assembly finds that a fresh start is required for the continued effective governance of the University of Louisville;

NOW, THEREFORE,

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

➔Section 1. KRS 164.821 is amended to read as follows:

- (1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of **ten (10)**~~seventeen (17)~~ members appointed by the Governor, **at least one (1) of whom shall be a graduate of the university**; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; **one (1)**~~a~~ member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and **one (1)**~~a~~ student member who shall be the president of the student body during the appropriate academic year. **The members appointed by the Governor shall be subject to confirmation by the Senate.**
 - (a) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
 - (b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.
 - (c) New appointees to the board shall not serve more than two (2) consecutive terms. ~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~
- (2) **The student member shall serve a one (1) year term that shall begin upon being elected and sworn in as student body president.** If the student member does not maintain ~~the~~~~his~~ position ~~of~~~~as~~ student body president or ~~the~~~~his~~ status ~~of~~~~as~~ a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The **elected** student member shall serve for **the remainder of the unexpired term**~~a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year~~.
- (3) The faculty member ~~and~~~~the~~ staff member~~, and student body member~~ shall **serve one (1) year terms and** cease to be eligible for membership on the board of trustees upon termination of their respective relationships with, **or leadership positions within**, the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner.~~The voting members of the board shall select a chairperson annually.~~
- (4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:
 - (a) Two (2) members shall serve one (1) year terms;
 - (b) **Two (2)**~~Three (3)~~ members shall serve two (2) year terms;
 - (c) **Two (2)**~~Three (3)~~ members shall serve three (3) year terms~~, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees~~;

- (d) **Two (2)**~~[Three (3)]~~ members shall serve four (4) year terms;
 - (e) **One (1) member**~~[Three (3) members]~~ shall serve **a** five (5) year **term**~~[terms]~~; and
 - (f) **One (1) member**~~[Three (3) members]~~ shall serve **a** six (6) year **term**~~[terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection]~~.
- (5) The Governor shall make his at-large appointments so as to divide the **appointed**~~[citizen]~~ representation upon the board to reflect:
- (a) **The** proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration; and
 - (b) ~~[shall reflect]~~ No less than **the** proportional representation of the minority racial composition of the Commonwealth **based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number.**~~[The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out of state travel.]~~
- (6) Vacancies among the **appointed**~~[citizen]~~ members of the board occurring by death, resignation, or any other cause, **other than expiration of a term**, shall be filled by appointments made by the Governor for the **remainder**~~[expiration]~~ of the **unexpired** term, subject to the qualifications set forth in this section.
- (7) Unless specifically approved by the board of trustees under the provisions of KRS 164.367, no member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff, and student members.

➔Section 2. KRS 164.830 is amended to read as follows:

- (1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. **A majority of the voting members of the board shall constitute a quorum for the transaction of business.** Powers of the board shall include the following:
- (a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.
 - (b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that the removal shall be made in accordance with procedures established by law for state institutions.
 - (c) Election of a **chairperson, a** vice chairperson **to act in the absence or temporary disability of the chairperson**, and any other officers as it deems wise, including the annual election of a six (6) member executive committee which shall have the powers that the board delegates to it and shall operate under the rules the board shall establish under its authority to make bylaws, rules, and regulations consistent with this chapter. The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after **the effective date of this Act**~~[May 30, 1997]~~, shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.
 - (d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.
 - (e) Requirement of reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.
 - (f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

- (g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (2) ***Board members shall receive no compensation for serving on the board, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with the reimbursement policy for state employees. Board members who reside outside the Commonwealth shall not be reimbursed for out-of-state travel expenses.***
- (3) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

➔Section 3. Upon the effective date of this Act and in accordance with KRS 164.005, the Governor's Postsecondary Education Nominating Committee shall as soon as practicable submit thirty nominations from which the Governor shall select ten for appointment to a newly established board of trustees. The ten appointees shall be subject to confirmation by the Senate.

➔Section 4. Currently or previously serving trustees may be considered by the Governor's Postsecondary Education Nominating Committee for nomination.

➔Section 5. Upon the appointment by the Governor of ten members identified under Section 3 of this Act, all authority, functions, and responsibilities vested in the former board of trustees of the University of Louisville shall be transferred to the newly re-created and established board of trustees of the University of Louisville. The board of trustees of the University of Louisville as it existed prior to the ten appointments shall be abolished. All duties, functions, responsibilities, records, equipment, staff, and supporting budgets of the former board of trustees of the University of Louisville and all functions, rights, powers, duties, and obligations as set forth in the Kentucky Revised Statutes and other relevant provisions of the law shall be transferred to the newly re-created and established board.

➔Section 6. Whereas the effective governance of public postsecondary institutions is critical to Kentucky's economy, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor January 9, 2017.

CHAPTER 8

(HB 174)

AN ACT relating to overweight vehicles.

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

➔Section 1. KRS 189.222 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:
 - (a) Height, thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;

- (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) Except as provided for in paragraph (f) of this subsection, truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same;
 - (f) A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate or parkway exit.
- (2) In addition to the provisions of KRS 189.2226, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:
- (a) Meats or agricultural crop products originating from a farm to first market;
 - (b) Livestock or poultry from their point of origin to first market;
 - (c) Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or
 - (d) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.
- (3) (a) Vehicles registered under KRS 186.050(4)(b) that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section may exceed the gross weight provisions set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- (b) ***Vehicles registered under KRS 186.050(3) that are engaged exclusively in the transportation of items listed in subsection (2)(a) and (b) of this section may exceed the gross weight provisions set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.***
- (4) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles.
- (5) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.
- (6) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

- (7) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- (8) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- (9) Except as otherwise provided in this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
 - (a) Width, one hundred two (102) inches, including any part of the body or load;
 - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- (10) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, *feed for livestock or poultry*, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- (11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Signed by Governor February 22, 2017.

CHAPTER 9

(SB 140)

AN ACT relating to reorganization of the Kentucky State Fair Board.

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

➔Section 1. KRS 247.090 is amended to read as follows:

- (1) The State Fair Board shall be composed of ***eighteen (18)***~~seventeen (17)~~ members, as follows:
 - (a) The Governor or his or her designee;
 - (b) The Commissioner of Agriculture or his or her designee;
 - (c) ***The secretary of the Finance and Administration Cabinet or his or her designee, who shall serve as an ex officio, nonvoting member for the duration of his or her service as secretary of the cabinet. The secretary shall provide additional financial expertise to the Kentucky State Fair Board, with no resulting personnel impact, fiscal impact, nor expense to Kentucky state government;***

- (d) The dean of the University of Kentucky College of Agriculture, Food and Environment or his or her designee;
 - (e)~~(d)~~ Five (5) members appointed by the Governor from the state at large with due consideration to geographical distribution throughout the state;
 - (f)~~(e)~~ One (1) member appointed by the Governor from the state at large who is involved with, or experienced in, agribusiness;
 - (g)~~(f)~~ One (1) member appointed by the Governor from a list of six (6) nominees that are representative of all segments of animal agriculture provided by trade organizations and commodity groups that may include but not be limited to the Kentucky Cattlemen's Association, Kentucky Dairy Development Council, Kentucky Livestock Improvement Association, Kentucky Pork Producers Association, Kentucky Poultry Federation, and Kentucky Sheep and Goat Development Office;
 - (h)~~(g)~~ One (1) member appointed by the Governor from a list of six (6) nominees that are representative of all segments of crop or plant production provided by trade organizations or commodity groups that may include but not be limited to Kentucky Corn Growers Association, Kentucky Grape and Wine Council, Kentucky Horticulture Council, Kentucky Small Grain Growers Association, and Kentucky Soybean Association;
 - (i)~~(h)~~ One (1) member appointed by the Governor from a list of six (6) nominees submitted by the governing body of the American Saddlebred Horse Association;
 - (j)~~(i)~~ One (1) member appointed by the Governor from a list of six (6) nominees provided by the Kentucky Farm Bureau Federation;
 - (k)~~(j)~~ One (1) member appointed by the Governor from a list of six (6) nominees provided by the Kentucky Association of Fairs and Horse Shows;
 - (l)~~(k)~~ One (1) member appointed by the Governor from a list of six (6) nominees provided by the Louisville Convention and Visitors Bureau representing the hospitality and tourism industry;
 - (m)~~(l)~~ The state president of the Kentucky FFA Association, who shall serve as an ex officio, nonvoting member for the duration of his or her term as student leader of the association; and
 - (n)~~(m)~~ The state president of the Kentucky 4-H Organization, who shall serve as an ex officio, nonvoting member for the duration of his or her term as student leader of the organization.
- (2) The terms of the members of the board appointed by the Governor shall be staggered terms. Members of the board shall be appointed to a term of four (4) years and shall serve until their successors are duly appointed and qualified. Members of the board shall be appointed to no more than three (3) terms that began on or after April 27, 2016. Terms that began prior to April 27, 2016, shall not count toward the term limits established by this subsection. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed and qualify. The initial appointments shall be for staggered terms, as follows:
- (a) Three (3) members shall be appointed for one (1) year;
 - (b) Three (3) members shall be appointed for two (2) years;
 - (c) Three (3) members shall be appointed for three (3) years; and
 - (d) Three (3) members shall be appointed for four (4) years.

Initial members shall be appointed by the Governor within thirty (30) days of April 27, 2016. It is the intention of the General Assembly that the political affiliation of the appointed members shall be as evenly divided as possible between the two (2) political parties polling the largest number of votes in the state at general elections.

- (3) In case of a vacancy among the appointed members of the board, the unexpired term shall be filled pursuant to the requirements and procedures for original appointments.

➔Section 2. The General Assembly hereby confirms Executive Order 2016-730, dated September 30, 2016, relating to the membership of the State Fair Board, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 3, 2017.

CHAPTER 10

(HB 180)

AN ACT relating to fictive kin.

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

➔SECTION 1. KRS 199.011 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

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

- (1) *"Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;*
- (2) *"Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;*
- (3) *"Cabinet" means the Cabinet for Health and Family Services;*
- (4) *"Child" means any person who has not reached his eighteenth birthday;*
- (5) *"Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;*
- (6) *"Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;*
- (7) *"Department" means the Department for Community Based Services;*
- (8) *"Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;*
- (9) *"Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;*
- (10) *"Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;*
- (11) *"Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;*
- (12) *"Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;*
- (13) *"Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption;*
- (14) *"Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);*
- (15) *"Secretary" means the secretary for health and family services; and*

- (16) *"Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:*
- (a) *Date, time, and place of the execution of the consent;*
 - (b) *Name of the child, if any, to be adopted and the date and place of the child's birth;*
 - (c) *Consenting person's relationship to the child;*
 - (d) *Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;*
 - (e) *A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.*
 - 1. *If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first-class mail.*
 - 2. *If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first-class mail;*
 - (f) *Disposition of the child if the adoption is not adjudged;*
 - (g) *A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;*
 - (h) *Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and*
 - (i) *Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.*

➔Section 2. KRS 199.462 is amended to read as follows:

- (1) Before an applicant is approved to provide foster care or relative caregiver services to a child, ***be considered a fictive kin placement for a child***, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:
 - (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; or
 - (b) Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice and Public Safety Cabinet shall furnish the information to the Cabinet for Health and Family Services and shall also send a copy of the information to the applicant.
- (2) The request for records shall be on a form approved by the Justice and Public Safety Cabinet, and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

- (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Health and Family Services may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.
- (4) ***If a child is placed and resides in a fictive kin home for more than seventy-two (72) hours, the Cabinet for Health and Family Services shall take action, including but not limited to the following:***
 - (a) ***Provide information on how to recognize and report child abuse or neglect; and***
 - (b) ***Ensure that, within the first five (5) days of a child under the age of five (5) years old being placed in a fictive kin home, the fictive kin has completed a one (1) time training course of one and one-half (1.5) hours of training covering the prevention and recognition of pediatric abusive head trauma, as defined in KRS 620.020.***
- (5) The Cabinet for Health and Family Services shall promulgate an administrative regulation to implement this section.

➔Section 3. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:
 - (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
 - 1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
 - 4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - 7. Abandons or exploits the child;
 - 8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
 - 9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or
 - (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);
- (3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
 - (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;

- (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
 - (c) The parent has sexually abused the child and has refused available treatment;
 - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
 - (e) The parent has caused the child serious physical injury;
- (4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
 - (5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
 - (6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
 - (7) "Cabinet" means the Cabinet for Health and Family Services;
 - (8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
 - (9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
 - (10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
 - (11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
 - (12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
 - (13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
 - (14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
 - (15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
 - (16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
 - (17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
 - (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
 - (19) "Department" means the Department for Community Based Services;

- (20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (24) "Eligible youth" means a person who:
- (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
 - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
 - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;
- (28) ***"Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;***
- (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- ~~(30)(29)~~ "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- ~~(31)(30)~~ "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
- (a) Electronic monitoring;
 - (b) Drug and alcohol screening, testing, or monitoring;
 - (c) Day or evening reporting centers;
 - (d) Reporting requirements;
 - (e) Community service; and
 - (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;
- ~~(32)(31)~~ "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- ~~(33)(32)~~ "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- ~~(34)(33)~~ "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

- (35)~~(34)~~ "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (36)~~(35)~~ "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (37)~~(36)~~ "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (38)~~(37)~~ "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;
- (39)~~(38)~~ "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (40)~~(39)~~ "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (41)~~(40)~~ "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42)~~(41)~~ "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (43)~~(42)~~ "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (44)~~(43)~~ "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (45)~~(44)~~ "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, *fictive kin home*, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (46)~~(45)~~ "Parent" means the biological or adoptive mother or father of a child;
- (47)~~(46)~~ "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (48)~~(47)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49)~~(48)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50)~~(49)~~ "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (51)~~(50)~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- (52)~~(51)~~ "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or
 - (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;
- (53)~~((52))~~ "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (54)~~((53))~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (55)~~((54))~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- (56)~~((55))~~ "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;
- (57)~~((56))~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (58)~~((57))~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (59)~~((58))~~ "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;
- (60)~~((59))~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (61)~~((60))~~ "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (62)~~((61))~~ "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of

authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

~~(63)~~~~(62)~~ "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

~~(64)~~~~(63)~~ "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

~~(65)~~~~(64)~~ (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual Runaway;
3. Habitual truant;
4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
5. Alcohol offenses as provided in KRS 244.085.

(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;

~~(66)~~~~(65)~~ "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

~~(67)~~~~(66)~~ "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;

~~(68)~~~~(67)~~ "Transition plan" means a plan that is personalized at the direction of the youth that:

- (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
- (b) Is as detailed as the youth may elect;

~~(69)~~~~(68)~~ "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

- (a) Who was brought before the court and made subject to the order;
- (b) Whose future conduct was regulated by the order;
- (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
- (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;

~~(70)~~~~(69)~~ "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

~~(71)~~~~(70)~~ "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

~~(72)~~~~(71)~~ "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 4. KRS 605.090 is amended to read as follows:

- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his or her commitment, be:
- (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
 - (b) Placed in the home of the child's parents, in the home of a relative, *a fictive kin*, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer.
 - 1. At the time a committed child is placed in the home of his or her parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary.
 - 2. At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, *the fictive kin*, or the governing authority of any private facility or agency in which the child has been placed whether the minor placed is a juvenile sexual offender as defined in KRS 635.505(2) or of any inappropriate sexual acts or sexual behavior by the child specifically known to the cabinet or Department of Juvenile Justice, and any behaviors of the child specifically known to the cabinet or Department of Juvenile Justice that indicate a safety risk for the placement. Information received by any private facility or agency under this paragraph shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 3. If, after a placement is made, additional information is obtained by the cabinet or the Department of Juvenile Justice about inappropriate sexual behavior or other behavior of the committed child that may indicate a safety risk for the placement, the cabinet or the Department of Juvenile Justice shall as soon as practicable, but no later than seventy-two (72) hours after the additional information is received, inform the foster parent, relative, *fictive kin*, or private facility or agency. Additional information received by any private facility or agency shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 4. Information disclosed under this paragraph shall be limited to the acts or behaviors of the committed child and shall not constitute a violation of confidentiality under KRS Chapter 610 or 620. No foster parent, relative, *fictive kin*, or other person caring for a committed child shall divulge the information received under this paragraph to persons who do not have a legitimate interest or responsibility relating to the case. Nothing in this subparagraph shall prohibit the disclosure or sharing of information between a foster parent, *relative, fictive kin*, custodian, private facility, or governmental entity for the protection of any child. A violation of this subparagraph is a Class B misdemeanor;
 - (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(2)(a), (b), or (c) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
 - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
 - (e) However, under no circumstances shall a child committed under KRS Chapter 620 be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime, as that term is defined in KRS 17.500, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime;
 - (f) Treated as provided in KRS Chapter 645;
 - (g) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), (e), or (f) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders, except that a child charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be detained in a state-operated detention facility when there is no available less restrictive alternative.
- (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
 - (a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
 - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;
 - (c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or
 - (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.
- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
- (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
- (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance

provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall state whether the child placed is a juvenile sexual offender as defined in KRS 635.505(2), and include information required under subsection (1) of this section. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

➔Section 5. KRS 610.125 is amended to read as follows:

- (1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a permanency hearing no later than twelve (12) months after the date the child is considered to have entered foster care, and every twelve (12) months thereafter if custody and out-of-home placement continues, to determine the future status of the child. For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.

The court shall address the following areas:

- (a) If parental rights have not been terminated, whether the child should be returned to the parent;
 - (b) Whether the child should be placed for adoption;
 - (c) Whether the child should be placed with a permanent custodian; and
 - (d) Whether the cabinet has documented a compelling reason that it is in the best interest of the child who is age sixteen (16) or older to be placed in another planned permanent living arrangement other than those listed in this subsection. Prior to the approval of this permanency goal, the court shall:
 1. Ask the child about the desired permanency outcome; and
 2. Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency goal for the child and provide compelling reasons why it continues to not be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative *or fictive kin*.
- (2) If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's parent will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.
- (3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, *fictive kin*, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court. The court shall set a time for the hearing and notify the child's parent, foster parents, preadoptive parents, *fictive kin*, or relatives providing care to the child and who also shall have a right to be heard; court-appointed special advocate; foster care review board member assigned to the case; attorney for the child; attorney for the parent, if any; and the Department of Juvenile Justice or the cabinet.
- (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of the child since the last permanency hearing, including the following:

- (a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;
 - (b) The number, location, and date for each placement during the total period of the child's commitment;
 - (c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;
 - (d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;
 - (e) The familial and institutional barriers to:
 - 1. Returning the child to the home;
 - 2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and
 - 3. Delivery of appropriate services needed by the child;
 - (f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of fourteen (14) years;
 - (g) An evaluation of the child's current placement and services provided to the child;
 - (h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement;
 - (i) Recommendations as to the permanency goal for the child; and
 - (j) For a child with another planned permanency arrangement as the child's permanency goal:
 - 1. The intensive, ongoing efforts to return the child to the home or secure a placement with a fit and willing relative, legal guardian, *fictive kin*, or adoptive parent, including efforts that utilize search technology to find the biological family;
 - 2. The steps the agency is taking to ensure that the child's foster family home or licensed child-caring facility is following the reasonable and prudent parent standard in accordance with 42 U.S.C. sec. 671; and
 - 3. The cabinet's efforts to ensure the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child in an age and developmentally appropriate manner about the opportunities of the child to participate in the activities.
- (5) (a) The child's parent, foster parent, preadoptive parent, *fictive kin*, or relative providing care to the child shall have the right to be heard; and
- (b) The attorney for the parent, attorney for the child, or court-appointed special advocate, if deemed appropriate by the court, may present any evidence relevant to the determination of a permanency goal for the child.
- (6) Upon conclusion of the hearing the court shall make a written order determining the permanency plan for the child.
- (7) If necessary, the case may be redocketed for further review of the progress toward the implementation of the permanency plan established at the permanency hearing.

➔Section 6. KRS 620.140 is amended to read as follows:

- (1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:
- (a) Informal adjustment of the case;
 - (b) Protective orders, such as the following:
 - 1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;

2. Placing the child in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and
 3. Orders authorized by KRS 403.715 to 403.785 and by KRS Chapter 456;
- (c) Removal of the child to the custody of an adult relative, *fictive kin*, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child;
- (d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or
- (e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).
- (2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

Signed by Governor March 10, 2017.

CHAPTER 11

(HB 192)

AN ACT relating to foster youth operator's license.

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

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

- (1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid intermediate motor vehicle operator's license issued under KRS 186.452 or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:
- (a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; ~~and~~
 - (b) *If the person is under the age of eighteen (18) and in the custody of the Cabinet for Health and Family Services, the instruction permit application shall be signed by:*
 1. *The applicant's parent, legal guardian, grandparent, adult sibling, aunt, or uncle if the parental rights have not been terminated in accordance with KRS Chapter 625;*
 2. *The foster parent with whom the applicant resides;*
 3. *Another person who is at least age eighteen (18) and is willing to assume responsibility for the applicant pursuant to Section 3 of this Act; or*

4. *The applicant, without another person, upon verification by the Cabinet for Health and Family Services in accordance with Section 4 of this Act that shall include proof of financial responsibility in accordance with subsection (2) of Section 3 of this Act; and*

- (c) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.
- (2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar (\$6) fee pursuant to KRS 186.531.
- (3)
 - (a) An instruction permit to operate a motor vehicle shall be valid for three (3) years and may be renewed. An instruction permit to operate a motorcycle shall be valid for one (1) year and may be renewed one (1) time.
 - (b) Except as provided in KRS 186.415, a person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.
 - (c) A person who was under eighteen (18) years of age at the time of application for an instruction permit and is eighteen (18) years of age or older shall have the instruction permit a minimum of one hundred eighty (180) days and complete a driver training program under KRS 186.410(4) before applying for an operator's license.
 - (d) A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license.
 - (e) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.
 - (f) In accordance with KRS 15A.352(5), a person whose motorcycle instruction permit has expired may apply to the circuit clerk to receive a motorcycle operator's license or endorsement if the person presents proof of successful completion of a motorcycle safety education course approved by the Justice and Public Safety Cabinet under KRS 15A.350 to 15A.366.
- (4)
 - (a) A person shall have the instruction permit in his *or her* possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.
 - (b) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
 - (c) The requirements of paragraph (b) of this subsection shall not apply to a motor vehicle instruction permit holder being supervised on a multiple-vehicle driving range by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school.
- (5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including but not limited to emergencies, involvement in school-related activities, or involvement in work-related activities.
- (6) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school, a person with an instruction permit who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.
- (7) A violation under subsection (4), (5), or (6) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.

- (8) A person under the age of eighteen (18) who accumulates more than six (6) points against his *or her* driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.
- (9) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

➔Section 2. KRS 186.470 is amended to read as follows:

- (1) (a) ***Except as provided in paragraphs (b) and (c) of this subsection***, the application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, intermediate license, or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590.~~{}~~
 - (b) ***The application of a minor who is under the age of eighteen (18) and in the custody of the Cabinet for Health and Family Services shall be signed by:***
 - 1. ***The applicant's parent, legal guardian, grandparent, adult sibling, aunt, or uncle if the parental rights have not been terminated in accordance with KRS Chapter 625;***
 - 2. ***The foster parent with whom the applicant resides;***
 - 3. ***Another person who is at least age eighteen (18) and is willing to assume responsibility for the applicant pursuant to Section 3 of this Act; or***
 - 4. ***The applicant, without another person, upon verification by the Cabinet for Health and Family Services in accordance with Section 4 of this Act that shall include proof of financial responsibility in accordance with subsection (2) of Section 3 of this Act.***
 - (c) If the minor does not have a father, mother, or guardian, ***and has not applied under paragraph (b) of this subsection***, an operator's license, intermediate license, or instruction permit shall not be granted to the minor unless his *or her* application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor.~~{}~~
 - (d) A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he *or she* reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (3) of this section.
- (2) The application shall include parental consent ***or the minor's consent*** for the receipt and release of the information as set forth in KRS 159.051 regarding the attendance and academic requirements for a minor to acquire and keep an operator's license, intermediate license, instructional permit, or privilege to operate a motor vehicle.
 - (3) (a) A parent or a guardian of a minor applicant, ***or a person who signed for a minor applicant under subsection (1)(b) or (1)(c) of this section***, may file with the cabinet a verified written request that the license of the minor be canceled. ***A minor's foster parent shall share a request made in accordance with this paragraph with the Cabinet for Health and Family Services.***
 - (b) ***A representative of the Cabinet for Health and Family Services may file with the cabinet a verified written request that the license of a minor child in the custody of the Cabinet for Health and Family Services be canceled.***
 - (c) ***Upon the filing of a request under paragraph (a) or (b) of this subsection,***~~{Thereupon}~~ the license of the minor shall be canceled and ***any***~~{the}~~ person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.
 - (4) ~~{The cabinet}~~ Upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license, ***the cabinet*** shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

➔Section 3. KRS 186.590 is amended to read as follows:

- (1) Any negligence of a minor under the age of eighteen (18) who has been licensed upon an application signed as provided by KRS 186.470, when driving any motor vehicle upon a highway, shall be imputed to the person who signed the application, **if required**, of the minor for the license. That person shall be jointly and severally liable with the minor for any damages caused by the negligence.
- (2) If a minor deposits or there is deposited in his **or her** behalf, a proof of financial responsibility in form and amounts required by ~~KRS 304.39-110~~ ~~Chapter 187~~, the person who signed the application shall not, while such proof is maintained, be subject to the liability imposed by subsection (1). If the minor is the owner of a motor vehicle, the proof of financial responsibility shall be with respect to the operation of that motor vehicle; if not an owner, then with respect to the operation of any motor vehicle.
- (3) Every motor vehicle owner who causes or knowingly permits a minor under the age of eighteen (18) to drive the vehicle upon a highway, and any person who gives or furnishes a motor vehicle to the minor shall be jointly and severally liable with the minor for damage caused by the negligence of the minor in driving the vehicle.

➔Section 4. KRS 605.102 is amended to read as follows:

- (1) For the purposes of this section, "caregiver" has the same meaning as in 42 U.S.C. sec. 675(10)(B).
- (2) In accordance with 42 U.S.C. sec. 671, a caregiver shall use the reasonable and prudent parent standard to determine whether to allow a child in the custody of the cabinet to participate in an age or developmentally appropriate extracurricular, enrichment, or social activity.
- (3) A caregiver shall not be liable as a result of the caregiver's approval of the participation of a child who is in the custody of the cabinet in an age or developmentally appropriate activity, so long as the caregiver acts in accordance with the reasonable and prudent parent standard. No provision in any agreement between the cabinet and a caregiver shall diminish the standard of care as set forth by this statute.
- (4) Nothing in this section is intended to abrogate or diminish the immunities of a cabinet official acting in the course and scope of the cabinet official's employment or create a legal duty on the part of a cabinet official.
- (5) ***The cabinet, in conjunction with the child's caregiver, shall utilize the reasonable and prudent parent standard to:***
 - (a) ***Verify that a child is in the custody of the cabinet and is age or developmentally appropriate to apply for an operator's license, motorcycle operator's license, intermediate license, or any instruction permit in accordance with Section 1 or 2 of this Act; or***
 - (b) ***Request that a child's operator's license, motorcycle license, intermediate license, or any instruction permit be cancelled in accordance with Section 2 of this Act.***
- (6) ***The cabinet shall promulgate an administrative regulation to implement subsection (5) of this section.***

Signed by Governor March 10, 2017.

CHAPTER 12

(SB 2)

AN ACT relating to retirement and declaring an emergency.

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

➔Section 1. KRS 21.530 is amended to read as follows:

- (1) For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, ***subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment***, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall:

- (a) Not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans; **and**
 - (b) ***Have investment experience. For purposes of this paragraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by Section 2 of this Act, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:***
 - 1. ***A portfolio manager acting in a fiduciary capacity;***
 - 2. ***A professional securities analyst or investment consultant;***
 - 3. ***A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;***
 - 4. ***A chartered financial analyst in good standing as determined by the CFA Institute; or***
 - 5. ***A university professor, teaching investment-related studies.***
- (2) (a) The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term.
- (b) A trustee shall not serve more than three (3) consecutive four (4) year terms. A trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board. The term limits established by this paragraph shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by this paragraph.
- (3) The members of the board shall annually elect a chairman. The chairman shall not serve more than four (4) consecutive years as chairman of the board. A trustee who has served four (4) consecutive years as chairman of the board may be elected chairman of the board after an absence of two (2) years from the position.
- (4) Gubernatorial appointees, and judicial and legislative appointees who do not receive an annual salary from the State Treasury in another capacity shall receive an amount equal to the per diem compensation paid to members of the General Assembly for each day they are in session. All members shall be reimbursed for their necessary expenses.
- ➔Section 2. KRS 21.540 is amended to read as follows:
- (1) Except as provided in KRS 21.550, 21.560, and ~~subsections~~~~[subsection]~~ (3) **and (7)** of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services ~~subject to the~~~~[as required without the]~~ limitations of KRS **Chapters 45, 45A, 56, and 57**~~45A.045~~. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.
- (2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.
- (b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
- 1. Solely by the participant;

2. Solely by the alternate payee; or
 3. Equally shared by the participant and alternate payee.
- (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
1. Is issued by a court or administrative agency; and
 2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.
- (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).
- (4) ***In order to improve public transparency regarding the administration of the Legislators' Retirement Plan and the Judicial Retirement Plan, the board of trustees of the Judicial Form Retirement System shall adopt a best-practices model by posting the following information to the system's Web site and shall make it available to the public:***
- (a) ***Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the system's Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;***
 - (b) ***A list of the members of the board of trustees and membership on each committee established by the board, including any investment committees;***
 - (c) ***A list of system staff and each staff's salary;***
 - (d) ***A list of the fund's professional consultants and their respective fees and commissions paid by the system;***
 - (e) ***A list of the system's expenditures;***
 - (f) ***The annual financial audit of the system, which shall include but not be limited to a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;***
 - (g) ***All external audits;***
 - (h) ***The annual actuarial valuation report of pension and retiree health benefits of each retirement plan administered by the system, which shall include a general statistical section and information on contributions, benefit payouts, and retirement plan demographic data;***
 - (i) ***All board minutes or other materials that require adoption or ratification by the board of trustees or committees of the board. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification by the board or committees;***
 - (j) ***All bylaws, policies, or procedures adopted or ratified by the board of trustees or by committees of the board;***
 - (k) ***The summary plan description for each plan administered by the system;***
 - (l) ***A document or a link to documents containing an unofficial copy of the statutes governing the plans administered by the Judicial Form Retirement System;***
 - (m) ***Investment information, including all investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:***
 1. ***Disclose the dollar value of fees and commissions paid to each individual manager or partnership;***

2. *Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and*
3. *As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).*

In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;

- (n) *An update of net investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager over a historical period. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;*
- (o) *All contracts or offering documents for services, goods, or property purchased or utilized by the system. Notwithstanding KRS 61.878, all contracts, including investment contracts, shall be subject to review by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705. If any public record contains material which is not excepted under KRS 61.878, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination; and*
- (p) *Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public.*

~~[The Judicial Form Retirement System shall make available on a public Web site, a listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a Web site established by the executive or judicial branch to inform the public about executive or judicial branch agency expenditures and public employee salaries and wages.]~~Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

(5) No trustee or employee of the board shall:

- (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;
- (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;
- (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;
- (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
- (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
- (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or
- (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 1. A trustee from serving as a judge or member of the General Assembly; or
 2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.

- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to ~~unregulated~~ placement agents. For purposes of this subsection, "~~unregulated~~ placement agent" means ***a third-party*** ~~an~~ individual, ***who is not an employee***, or firm, ***wholly or partially owned by the entity being hired***, who solicits investments on behalf of an investment manager, private fund, or company issuing securities, ~~who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency~~.
- (7) ***All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:***
- (a) ***On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;***
 - (b) ***Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;***
 - (c) ***Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;***
 - (d) ***Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;***
 - (e) ***No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and***
 - (f) ***Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.***

➔Section 3. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of ***seventeen (17)*** ~~thirteen (13)~~ members, who shall be selected as follows:
- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
 - (b) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
 - (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
 - (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
 - (e) ***Ten (10)*** ~~Six (6)~~ trustees, appointed by the Governor of the Commonwealth, ***subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment.*** Of the ***ten (10)*** ~~six (6)~~ trustees appointed by the Governor:
 1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;
 2. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
 3. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
 4. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and

5. ~~Six (6)~~~~Two (2)~~ trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
 - a. A portfolio manager acting in a fiduciary capacity;
 - b. A professional securities analyst or investment consultant;
 - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 - d. A chartered financial analyst in good standing as determined by the CFA Institute; *or*
 - e. A university professor, teaching ~~economics or~~ investment-related studies; *or*
 - f. ~~Any other professional with exceptional experience in the field of public or private finances.~~
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
 - (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) *Except as provided in subsection (6) of Section 4 of this Act*, to contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board ~~subject to~~~~[without limitation, notwithstanding the provisions of]~~ KRS Chapters 45, 45A, 56, and 57;
 - (e) To purchase fiduciary liability insurance;
 - (f) *Except as provided in subsection (6) of Section 4 of this Act*, to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties ~~subject to~~~~[without limitation, notwithstanding the limitations of]~~ KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his official duties. *The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.*
 - (3)
 - (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
 - (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
 - (4)
 - (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
 - (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.

- (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.
 - (d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.
 - (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.
 - (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.
 - (g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
 - (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
 - (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
 - 1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
 - 2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
 - 3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining *elected* trustees *with a person selected from the system in which the vacancy occurs*, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term. *In the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.*
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.
 - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
 - (c) A current or former employee of Kentucky Retirement Systems shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director.
 - (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or

vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.

- (c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A ~~and 45A~~ and KRS 64.640. The executive director shall be the chief administrative officer of the board.
- (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. *All employees of the systems, except for the executive director, shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet*~~For an appointee deemed to be in a policy making position, the board shall determine the compensation and other terms of employment for the policy making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.~~
- (c) ~~Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:~~
 - 1. ~~Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;~~
 - 2. ~~Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;~~
 - 3. ~~Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;~~
 - 4. ~~Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;~~
 - 5. ~~Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;~~
 - 6. ~~Given those holidays and rights granted to state employees as provided in KRS 18A.190;~~
 - 7. ~~Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;~~
 - 8. ~~Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;~~
 - 9. ~~Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;~~

10. ~~Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and~~
11. ~~Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.~~
- (d) ~~The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:~~
 1. ~~A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;~~
 2. ~~An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug free workplace policy;~~
 3. ~~A classification plan including provisions describing class specifications, position actions, and employee actions;~~
 4. ~~A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;~~
 5. ~~Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, lay offs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;~~
 6. ~~Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and~~
 7. ~~Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave}.~~
- (c)~~(e)~~ The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (d)~~(f)~~ The board shall establish a system of accounting.
- (e)~~(g)~~ The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.
- (10) ~~[All employees of the board shall serve during its will and pleasure.]~~Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

- (12) (a) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.
- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:
1. In good faith;
 2. On an informed basis; and
 3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the

burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
 - (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
 - 1. Benefits and benefits administration;
 - 2. Investment concepts, policies, and current composition and administration of retirement systems investments;
 - 3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
 - 4. Actuarial and financial concepts pertaining to the retirement systems.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the trustee has completed the orientation program;
 - (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the board member has met the annual training requirements; and
 - (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the retirement systems' Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement systems' Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
 - (b) The Comprehensive Annual Financial Report with the information as follows:
 - 1. A general overview and update on the retirement systems by the executive director;
 - 2. A listing of the board of trustees;
 - 3. A listing of key staff;
 - 4. An organizational chart;

5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
 6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total *net of fees* return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
 8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;
- (c) All external audits;
 - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
 - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
 - (f) The retirement systems' summary plan description;
 - (g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;
 - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (i) All investment holdings *in aggregate, fees*, and commissions for each fund administered by the board, ***which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017.*** ~~The board shall update the list of holdings and commissions on a quarterly basis for fiscal years beginning on or after July 1, 2008.~~ ***The systems shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:***
 1. ***Disclose the dollar value of fees and commissions paid to each individual manager or partnership;***
 2. ***Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and***
 3. ***As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).***

In addition to the requirements of this paragraph, the systems shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;
 - (j) An update of *net of fees* investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, ~~and~~ for each asset class administered by the board, ***and for each manager.*** The update shall be posted on a quarterly basis for fiscal years beginning on or after ***July 1, 2017*** ~~July 1, 2008~~;
 - (k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the systems' Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages. ~~No provision of this paragraph shall require the systems to disclose confidential member information protected under KRS 61.661; and~~
 - (l) ***All contracts or offering documents for services, goods, or property purchased or utilized by the systems; and***

- (m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.
- (20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, *except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination*~~for to competitively negotiate vendor fees~~.
- (21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to ~~unregulated~~ placement agents. For purposes of this subsection, "~~unregulated~~ placement agent" means *a third-party*~~an~~ individual, *who is not an employee, or firm, wholly or partially owned by the entity being hired,* who solicits investments on behalf of an investment manager, private fund, or company issuing securities~~, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency~~.

➔Section 4. KRS 61.650 is amended to read as follows:

- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
- (b) 1. The board shall establish an investment committee whose membership shall be composed of the following:
- a. The ~~six (6)~~~~two (2)~~ trustees appointed by the Governor pursuant to KRS 61.645(1)(e)5.; and
 - b. Three (3) trustees appointed by the board chair.
2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee, officer, employee, or other fiduciary shall discharge duties with respect to the retirement system:
1. Solely in the interest of the members and beneficiaries;
 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 4. Impartially, taking into account any differing interests of members and beneficiaries;
 5. Incurring any costs that are appropriate and reasonable; and
 6. In accordance with a good-faith interpretation of the law governing the retirement system.
- (d) *In addition to the standards of conduct prescribed by paragraph (c) of this subsection, all individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, board members, or staff employees, shall adhere to "The Code of Ethics and Standards of Professional Conduct," the "Asset Manager Code of Professional Conduct" if the individual is managing retirement system assets, and the "Code of Conduct for Members of a Pension Scheme Governing Body" if the individual is a board member. All codes cited in this paragraph are promulgated by the CFA Institute.*

- (2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.
- (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.
- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) *All contracts for the investment or management of assets of the systems shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:*
 - (a) *On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;*
 - (b) *Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;*
 - (c) *Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;*
 - (d) *Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;*
 - (e) *No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and*
 - (f) *Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.*

➔Section 5. KRS 161.250 is amended to read as follows:

- (1) (a) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky."
- (b) The board of trustees shall consist of *the following*:
 1. The chief state school officer~~[-];~~;
 2. The State Treasurer~~[-];~~;
 3. *Two (2) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. These two (2) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 161.460, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:*
 - a. *A portfolio manager acting in a fiduciary capacity;*
 - b. *A professional securities analyst or investment consultant;*

- c. *A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;*
 - d. *A chartered financial analyst in good standing as determined by the CFA Institute; or*
 - e. *A university professor, teaching investment-related studies; and*
 - 4. Seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.
 - (c)
 - 1. Elective trustees shall not serve more than three (3) consecutive four (4) year terms. An elective trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board of trustees.
 - 2. The term limits established by subparagraph 1. of this paragraph shall apply to elective trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the elective trustee has exceeded the term limits provided by subparagraph 1. of this paragraph.
 - (d)
 - 1. *Each appointed trustee shall serve a term of four (4) years. An appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An appointed trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board of trustees.*
 - 2. *Any vacancy that occurs in an appointed position shall be filled in the same manner that provides for the selection of the trustee; however, any vacancy shall be filled only for the duration of the unexpired term.*
- (2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.
- (3) The board of trustees shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees to the board. The orientation program shall include training on:
 - 1. Benefits and benefits administration;
 - 2. Investment concepts, policies, and current composition and administration of retirement system investments;
 - 3. Laws, bylaws, and administrative regulations pertaining to the retirement system and to fiduciaries; and
 - 4. Actuarial and financial concepts pertaining to the retirement system.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the trustee has completed the orientation program;

- (b) Annual required training for trustees on the administration, benefits, financing, and investing of the retirement system. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the board member has met the annual training requirements; and
 - (c) The retirement system shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (4) In order to improve public transparency regarding the administration of the system, the board of trustees shall adopt a best practices model by posting the following information to the retirement system's Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement system's Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
 - (b) The Comprehensive Annual Financial Report with the information as follows:
 - 1. A general overview and update on the retirement system by the executive secretary;
 - 2. A listing of the board of trustees;
 - 3. A listing of key staff;
 - 4. An organizational chart;
 - 5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
 - 6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total *net* return on retirement system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
 - 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
 - 8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;
 - (c) All external audits;
 - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
 - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
 - (f) The retirement system's summary plan description;
 - (g) The retirement system's law book;
 - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (i) All investment holdings *in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017.* ~~The board shall update the list of holdings and commissions on a quarterly basis for fiscal years beginning on or after July 1, 2008.~~ *The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:*

1. *Disclose the dollar value of fees or commissions paid to each individual manager or partnership;*
2. *Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and*
3. *As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).*

In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;

- (j) An update of *net of fees* investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, ~~and~~ for each asset class administered by the board, *and for each manager*. The update shall be posted on a quarterly basis for fiscal years beginning on or after *July 1, 2017* ~~July 1, 2008~~; ~~and~~
 - (k) *All contracts or offering documents for services, goods, or property purchased or utilized by the system; and*
 - (l) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the system's Web site, the system may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages. ~~No provision of this paragraph shall require the system to disclose confidential member information protected under KRS 161.585.~~
- (5) Notwithstanding the requirements of subsection (4) of this section, the retirement system shall not be required to furnish information that is protected under KRS 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement system's ability to competitively invest in real estate or other asset classes, *except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination* ~~or to competitively negotiate vendor fees~~.
- (6) For any benefit improvements the General Assembly has authorized the board of trustees to establish under KRS 161.220 to 161.716 and that require formal adoption by the board, the board shall establish the benefits by promulgation of administrative regulations in accordance with KRS Chapter 13A.

➔Section 6. KRS 161.300 is amended to read as follows:

Seven ~~(7)~~ ~~Five (5)~~ members of the board of trustees shall constitute a quorum. Each trustee shall be entitled to one (1) vote. Four (4) votes or a majority of the trustees present whichever is the larger number shall be necessary for a decision by the trustees at any meeting of the board.

➔Section 7. KRS 161.340 is amended to read as follows:

- (1) (a) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The chairperson shall not serve more than four (4) consecutive years as chairperson or vice chairperson of the board. The vice chairperson shall not serve more than four (4) consecutive years as chairperson or vice chairperson of the board. A trustee who has served four (4) consecutive years as chairperson or vice chairperson of the board may be elected chairperson or vice chairperson of the board after an absence of two (2) years from the position.
- (b) The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications

as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

- (2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.
- (3) (a) ***Except as provided by subsection (7) of Section 8 of this Act***, the board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services, and commodities, as are required to carry out the obligations of the board in accordance with the provisions of this chapter, ***subject to***~~without limitations, including~~ KRS Chapters ~~12, 13B, 145, 45A, 56, and 57~~ ***but without the limitations provided by KRS Chapters 12 and 13B.***~~and~~
 - (b) ***The board*** shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General. ***The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.***
- (4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.
- (6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.
- (7) Notwithstanding any statute to the contrary, the executive branch of government shall accept from the Kentucky Teachers' Retirement System all accrued annual and sick leave balances and service credits of employees leaving the Kentucky Teachers' Retirement System and accepting appointments within the executive branch. These leave balances shall be attested to by the Kentucky Teachers' Retirement System and shall not exceed those limits established by statute or administrative regulation for employees of the executive branch.

➔Section 8. KRS 161.430 is amended to read as follows:

- (1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, ***board members***, or staff employees, shall adhere to "The Code of Ethics~~{ }~~" and ~~{ "The Standards of Professional Conduct,"~~ ***the "Asset Manager Code of Professional Conduct" if the individual is managing retirement system assets, and the "Code of Conduct for Members of a Pension Scheme Governing Body" if the individual is a board member,*** promulgated by the CFA Institute~~[Association for Investment Management and Research]~~. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business

community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

- (2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:
 - (a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;
 - (b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;
 - (c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
 - (d) In accordance with the laws, administrative regulations, and other instruments governing the system.
- (3)
 - (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.
 - (b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:
 1. Registered under the Federal Investment Advisors Act of 1940; or
 2. A bank as defined by that Act; or
 3. An insurance company qualified to perform investment services under the laws of more than one (1) state.
- (4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.
- (5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Kentucky Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to ~~unregulated~~ ~~placement agents~~. For purposes of this subsection, ~~an "unregulated placement agent"~~ means **a third-party~~an~~ individual, who is not an employee, or firm, wholly or partially owned by the entity being hired,** who solicits investments on behalf of an investment manager, private fund, or company issuing securities~~, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.~~
- (7) ***All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:***

- (a) *On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;*
- (b) *Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;*
- (c) *Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;*
- (d) *Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;*
- (e) *No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and*
- (f) *Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.*

➔Section 9. KRS 7A.220 is amended to read as follows:

- (1) The Public Pension Oversight Board shall be composed of the following ***nineteen (19)***~~*thirteen (13)*~~ members:
 - (a) ***Four (4)***~~*Two (2)*~~ members of the General Assembly appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, ***one (1) of whom shall be the chair or a vice chair of the House Standing Committee on Appropriations and Revenue***, and one (1) of whom the Speaker shall designate as co-chair ***of the board***;
 - (b) ***Four (4)***~~*Two (2)*~~ members of the General Assembly appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she has been elected, ***one (1) of whom shall be the chair or a vice chair of the Senate Standing Committee on Appropriations and Revenue***, and one (1) of whom the President shall designate as co-chair ***of the board***;
 - (c) ***Two (2) members***~~*One (1) member*~~ of the General Assembly appointed by the Minority Floor Leader of the Senate, who shall serve while a member of the Senate for the term for which he or she has been elected;
 - (d) ***Two (2) members***~~*One (1) member*~~ of the General Assembly appointed by the Minority Floor Leader of the House of Representatives, who shall serve while a member of the House for the term for which he or she has been elected;
 - (e) One (1) individual appointed by the Speaker of the House of Representatives, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;
 - (f) One (1) individual appointed by the President of the Senate, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;
 - (g) The state budget director or his or her designee;
 - (h) The Auditor of Public Accounts or his or her designee;
 - (i) The Attorney General or his or her designee; and
 - (j) Two (2) individuals appointed by the Governor, one (1) of whom shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience and one (1) of whom shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section.
- (2) For purposes of this section, "retirement experience" means:
 - (a) Experience in retirement or pension plan management;
 - (b) A certified public accountant with relevant experience in retirement or pension plan accounting;

- (c) An actuary with relevant experience in retirement or pension plan consulting;
 - (d) An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
 - (e) A current or former university professor whose primary area of emphasis is economics or finance.
- (3) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall not:
- (a) Be a member of the General Assembly;
 - (b) Be employed by a state agency of the Commonwealth of Kentucky or receiving a contractual payment for services rendered to a state agency of the Commonwealth of Kentucky that would conflict with his or her service to the board; or
 - (c) Serve more than three (3) consecutive four (4) year terms on the board.
- (4) Any vacancy which may occur in the membership of the board shall be filled by the appointing authority who made the original appointment.
- (5) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall serve a term of four (4) years.

➔Section 10. KRS 7A.255 is amended to read as follows:

- (1) Notwithstanding KRS 21.345 to 21.580, 61.661, 61.870 to 61.884, or 161.585 to the contrary, on or before November 15 following the close of each fiscal year, the state-administered retirement systems shall collectively file a report with the Public Pension Oversight Board that shall include the following information for each member or recipient of a retirement allowance from any of the state-administered retirement systems:
- (a)~~[(1)]~~ A unique identification number for each member or recipient that is created solely for purposes of compiling the report provided by this section and which shall not be the member's Social Security number or personal identification number issued by the systems. For individual members or recipients with multiple accounts in the state-administered retirement systems, all of the state-administered retirement systems shall use the same unique identification number;
 - (b)~~[(2)]~~ The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
 - (c)~~[(3)]~~ The status of the member or recipient, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, a beneficiary, or a retired member who has returned to work following retirement with an agency participating in the systems;
 - (d)~~[(4)]~~ If the individual is a retired member or beneficiary, the annualized monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
 - (e)~~[(5)]~~ If the individual is a member who has not yet retired, the estimated annual retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.

Under no circumstances shall the member's name, address, or Social Security number be included in the information required to be reported to the board by this section, nor shall the unique identification number established by subsection (1) of this section be capable of being linked to a specific member's retirement account with a state-administered retirement system.

- (2) *On or before November 15 following the close of each fiscal year, the state-administered retirement systems shall report to the Public Pension Oversight Board the percentage of system assets and managers for which fees and commissions are being reported in accordance with paragraph (m) of subsection (4) of Section 2 of this Act, paragraph (i) of subsection (19) of Section 3 of this Act, and paragraph (i) of subsection (4) of Section 5 of this Act. This subsection shall apply on a fiscal year basis beginning on or after July 1, 2017.*
- (3) *On or before November 15, 2017, the state-administered retirement systems shall tender to the Public Pension Oversight Board a copy of their board-adopted investment procurement policy along with certification from the secretary of the Finance and Administration Cabinet that the investment procurement policy meets or does not meet the best practices for investment management procurement. If the board amends its investment procurement policy, it shall tender a copy of its amended investment procurement policy to the Public Pension Oversight Board within sixty (60) days of adoption along with certification*

from the secretary of the Finance and Administration Cabinet that the policy meets or does not meet the best practices for investment management procurement.

➔Section 11. KRS 6.350 is amended to read as follows:

- (1) A bill which would increase or decrease the benefits or increase or decrease participation in the benefits or change the actuarial accrued liability of any state-administered retirement system shall not be reported from a legislative committee of either house of the General Assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.
- (2) (a) An actuarial analysis required by this section ~~shall~~^{must} show the economic effect of the bill on the state-administered retirement system over a twenty (20) year period, including:
 1. An estimate of the effect on the unfunded actuarial accrued liabilities and funding levels of the affected systems; and
 2. A projection of the annual employer costs to the systems of implementing the legislation over the twenty (20) year period. The annual employer cost projection shall include the effect on the contributions of participating employers as a percentage of total payroll and in total dollars of contributions.
- (b) If a bill affects more than one (1) state-administered retirement system, the actuarial analysis shall project costs for each affected state-administered retirement system.
- (c) *A statement that the cost is negligible or indeterminable shall not be considered in compliance with this section. If a cost cannot be determined by the actuary in accordance with paragraph (a) of this subsection, then the systems shall certify in writing:*
 1. *The estimated number of individuals affected;*
 2. *The estimated change in benefit payments;*
 3. *The estimated change to employer costs; and*
 4. *The estimated change to administrative expenses.*
- ~~(d)(e)~~ An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected state-administered retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. Actuarial cost methods and assumptions that meet actuarial standards of practice established by the Actuarial Standards Board shall be used in all cost projections.
- ~~(e)(d)~~ An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.
- (3) (a) An actuary commissioned to make an actuarial analysis that is required by this section, or for the purpose of seeking appropriations for a state-administered retirement system, shall include in the analysis a complete definition of each actuarial term used in the analysis and, either in the analysis or in a separate actuarial valuation report made available as a public record, an enumeration and explanation of each actuarial assumption used to complete the actuarial analysis.
- (b) If the actuary commissioned to complete the actuarial analysis is relying upon assumptions that have not been previously established by the actuary in an actuarial valuation of the affected state-administered retirement system, the actuary shall clearly note and describe the new assumption and the basis for selecting the assumption.
- (4) The actuarial analysis required by this section shall be completed by the actuary retained by the affected state-administered retirement system. The state-administered retirement systems shall provide the analysis without cost to the General Assembly.
- (5) For purposes of this section, the terms:
 - (a) "State-administered retirement system" shall include:
 1. The Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System administered by the Kentucky Retirement Systems and

established under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;

2. The Kentucky Teachers' Retirement System established under KRS 161.220 to 161.716;
 3. The Judicial Retirement Plan established under KRS 21.345 to 21.580; and
 4. The Legislators' Retirement Plan established under KRS 6.500 to 6.577; and
- (b) "Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage.

➔Section 12. The amendments to subsections (1) and (6) of Section 2 of this Act, subsections (2) and (21) of Section 3 of this Act, subsection (3) of Section 7 of this Act, and subsection (6) of Section 8 of this Act, governing placement agents and contracts or offerings entered into by the state-administered retirement systems, shall apply to contracts and offerings established or contracts or offerings renewed on or after July 1, 2017.

➔Section 13. The amendments to subsections (1) and (7) of Section 2 of this Act, subsection (2) of Section 3 of this Act, subsection (6) of Section 4 of this Act, subsection (3) of Section 7 of this Act, and subsection (7) of Section 8 of this Act governing the application of the Model Procurement Code, KRS Chapter 45A, and related statutes to the state-administered retirement systems, shall apply to contracts and offerings established or contracts or offerings renewed on or after July 1, 2017.

➔Section 14. The amendments to subsection (1) of Section 1 of this Act and to subsection (1)(e) of Section 3 of this Act that require Senate confirmation of, and modify the requirements for, gubernatorial appointments to the Judicial Form Retirement System and the Kentucky Retirement Systems boards of trustees shall apply to appointments or reappointments made on or after the effective date of this Act.

➔Section 15. Notwithstanding any language to the contrary, for the purposes of providing staggered appointments of the two trustees established by subsection (1)(b) of Section 5 of this Act, the Governor shall appoint one trustee for an initial term of four years and one trustee for an initial term of two years, provided that the initial term of two years shall not count towards the term limitations in subsection (1)(d) of Section 5 of this Act for the one trustee so appointed.

➔Section 16. Notwithstanding KRS 12.028(5), the General Assembly confirms Sections I, II, except as to the title "Board of Directors", III, V, VII, VIII, XI, XII, XV and XVI of Executive Order 2016-340 dated June 17, 2016, to the extent that it is not otherwise confirmed or superseded by this Act.

➔Section 17. Whereas ensuring that the state-administered retirement systems are operating in a transparent manner is important to public employees, public retirees, and taxpayers of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 10, 2017.

CHAPTER 13

(SB 116)

AN ACT relating to the Board of Medical Imaging and Radiation Therapy and declaring an emergency.

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

➔Section 1. KRS 311B.100 is amended to read as follows:

- (1) The following individuals are required to apply for and receive a license from the Commonwealth of Kentucky before performance of any procedures utilizing radiation for either medical imaging or radiation therapy:
 - (a) Advanced imaging professionals;
 - (b) Medical imaging technologists;
 - (c) Radiographers;
 - (d) Radiation therapists;

- (e) Nuclear medicine technologists; and
 - (f) Limited X-ray machine operators.
- (2) Qualifications for the above categories shall be established by the board through the promulgation of administrative regulations. The board may also identify other specialties or categories of duties consistent with this chapter through the promulgation of administrative regulations.
- (3) *An applicant for licensure under subsection (1)(a) to (e) of this section who did not graduate from an accredited educational program, is licensed or certified in another jurisdiction with requirements and privileges comparable to Kentucky's, and has:*
- (a) *Graduated from a postsecondary institution in a course of study focusing on one (1) of the licensing categories listed in subsection (1) of this section;*
 - (b) *Passed a certifying examination from a national organization demonstrating competence in his or her subject matter area;*
 - (c) *An active valid license or certificate and has not been professionally disciplined or reprimanded by any credentialing jurisdiction or national organization; and*
 - (d) *Provided the board with evidence of:*
 - 1. *At least five (5) years of experience as an advanced imaging professional; and*
 - 2. *Maintenance of continuing education requirements during his or her period of licensure or certification;*

shall, upon application and payment of an application fee to the board, be granted licensure by the board in his or her category, unless the board can show cause for denial under KRS 311B.150(4).

➔Section 2. Whereas there is a need for the Commonwealth to maintain an adequate supply of qualified healthcare professionals, and for healthcare professionals with demonstrated competency to be able to find employment within Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 10, 2017.

CHAPTER 14

(SB 117)

AN ACT relating to alternative certification.

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

➔Section 1. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to ~~161.134~~~~161.120~~:

- (1) *"College or university work of graduate grade" means academic preparation which extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a college or university accredited for the graduate level.*
- (2) *"Continuing education" means study or other activities to provide professional improvement and personal growth for certified teachers throughout their career. It may include, but shall not be limited to, university courses, an advanced degree, or a combination of ~~university courses,~~ field-based experience, individual research, and approved professional development activities, pursuant to KRS 156.095.*
- (3) *"Professional certificate" means the document issued to an applicant upon completion of an approved program of preparation, recommendation by the educator preparation provider, and successful completion of the assessments in the area in which certification is being sought, and if applicable, successful completion of any internship requirements, unless otherwise waived under KRS 161.030 based on preparation and experience completed outside of Kentucky.*

- (4) **"Provisional certificate" means the document issued to an individual prior to the issuance of a professional certificate.**
- (5)~~(2)~~ "Standard college or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the Education Professional Standards Board.
- ~~(3) "College or university work of graduate grade" means academic preparation which extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a college or university accredited for the graduate level.]~~
- (6)~~(4)~~ "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he or she is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.
- (7)~~(5)~~ "Teacher's aide" means an adult school employee who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his or her training and competency, certain instructional and noninstructional functions in the school program including, but not limited to, clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, and preparing and organizing instructional materials and equipment.

➔Section 2. KRS 161.048 is amended to read as follows:

- (1) The General Assembly hereby finds that:
- (a)
 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
 2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
 3. There are persons who should be recruited to teach in Kentucky's public schools as they have academic majors, strong verbal skills as shown by a verbal ability test, and deep knowledge of content, characteristics that empirical research identifies as important attributes of quality teachers;
 4. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
 5. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.
 - (b) There are hereby established alternative certification program options as described in subsections (2) to (9) of this section.
 - (c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.
 - (d) ***The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.***
 - (e)~~(d)~~ The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.
- (2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment in a local school district shall receive a one (1) year provisional~~teaching~~ certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:
- (a) The application contains documentation of all education and work experience;
 - (b) The candidate has documented~~ten (10) years of~~ exceptional work experience in the area in which certification is being sought;

- (c) The candidate possesses:
1. ~~{a. }~~ ~~A~~ ~~minimum of a~~ bachelor's degree **or a graduate degree**; ~~with a cumulative grade point average of two and five tenths (2.5) on a four (4) point scale or a grade point average of three (3.0) on a four (4) point scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; or~~
 2. ~~{b. }~~ A **minimum** ~~graduate degree with a~~ cumulative grade point average of two and **seventy-five hundredths (2.75)** ~~{five tenths (2.5)}~~ on a four (4) point scale or a **minimum** grade point average of three (3.0) on a four (4) point scale on the last **thirty (30)** ~~{sixty (60)}~~ hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 3. ~~{2. }~~ An academic major or a passing score on the academic content assessment **in the area in which certification is being sought by the applicant as** designated by the Education Professional Standards Board. ~~{; and }~~
- ~~{(d) }~~ The candidate shall participate in the teacher internship program under ~~{subsections (5), (6), (7), and (8) of}~~ KRS 161.030. After successful completion of the internship **program**, the candidate shall receive a ~~regular~~ professional certificate and shall be subject to certificate renewal requirements the same as ~~any~~ other **teachers** ~~{teacher}~~ with a ~~regular~~ professional certificate.
- (3) Option 2: Certification through a local **school** district training program. A local **school** district or group of **school** districts may seek approval for a training program. The state-approved local **school** district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by **the** Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local **school** district alternative training program, the candidate shall **possess**:
- (a) ~~{Possess }~~ A bachelor's degree **or a graduate degree**; ~~{with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program. }~~
 - (b) **A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;**
 - (c) **A passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board** ~~{Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. }~~ To be eligible to take **an academic content assessment** ~~{a subject field test}~~, the applicant shall have completed a thirty (30) hour major in the academic content area or five (5) years of experience in the academic content area as approved by the Education Professional Standards Board; **and** ~~{ }~~
 - ~~{(d) }~~ ~~{(e) }~~ **An offer of** ~~{Have been offered}~~ employment in a school district which has a training program approved by the Education Professional Standards Board.
- ~~{(d) }~~ Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. **The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate** ~~{The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030. }~~

- (e) ~~The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.~~
- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive *a one (1) year provisional certificate*~~[alternative certification]~~ for teaching at any level:
 - (a) A master's degree or doctoral degree in the academic content area for which certification is sought;
 - (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic content area for which certification is sought in a regionally or nationally accredited institution of higher education; and
 - (c) *An offer of employment in a school district which has been approved by the Education Professional Standards Board*~~[Successful completion of the teacher internship requirement imposed under KRS 161.030].~~

The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with professional certificates.

- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, *computer science*, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.~~[An individual certified as an adjunct instructor shall not be deemed "highly qualified" under the provisions of the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.]~~
- (6) Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years,~~[to a veteran]~~ for teaching at the elementary, secondary, and secondary *career technical*~~[vocational]~~ education levels *to a veteran of the Armed Forces who was honorably*~~[with the following qualifications:~~
 - (a) ~~1.] discharged[or released] from active duty as evidenced by Defense Department Form 214 (DD 214) or National Guard Bureau Form 22 or to a member of the Armed Services currently serving with[under honorable conditions after] six (6) or more years of honorable service, including Reserves, National Guard, or[continuous] active duty. The candidate shall possess:[immediately before the discharge or release; or]~~
 - (a) *A bachelor's degree or graduate degree;*
 - (b) *A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and*
 - (c) *An academic major or a passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board.*~~]~~
 - ~~2. Completed a total of at least ten (10) years of active duty service, ten (10) years of service officially credited toward armed services retirement, or ten (10) years' combination of such service;~~
 - (b) ~~At least a bachelor's degree in the content area or closely related area for which certification is sought, issued by a regionally or nationally accredited institution of higher education;~~
 - (c) ~~A grade point average of two and five tenths (2.5) on a four (4) point scale for a bachelor's degree or an advanced degree; and~~
 - (d) ~~A passing score on the written exit assessment examination designated by the Education Professional Standards Board for content knowledge.]~~

Upon an offer of employment by a school district, the eligible veteran shall receive a one (1) year provisional~~teaching]~~ certificate with approval by the Education Professional Standards Board of a joint application by the veteran and the employing school district. During this year, the veteran shall participate in the teacher internship program under~~[subsections (5), (6), (7), and (8) of]~~ KRS 161.030. ~~After~~~~[Upon]~~ successful completion of the internship program, the veteran shall receive a~~[regular]~~ professional certificate.

- (7) Option 6: University alternative program. With approval of the Education Professional Standards Board, a university may provide an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a ***one (1) year***~~[temporary]~~ provisional certificate and shall ***participate***~~[be a candidate]~~ in the Kentucky teacher internship program, notwithstanding provisions of KRS 161.030. A student may not participate in the internship program until the student has successfully completed the assessments required by the board. The ***one (1) year***~~[temporary]~~ provisional certificate~~[shall be valid for a maximum of one (1) year, and]~~ may be renewed two (2) additional years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship ***program*** requirements, and all ***academic content*** assessments ***in the specific teaching field of the applicant as designated by the Education Professional Standards Board***~~[required by the board]~~.

- (8) Option 7: Certification of a person in a field other than education to teach in elementary, middle, or secondary programs. This option shall not be limited to teaching in shortage areas.

~~[(a)]~~ An individual certified under provisions of this subsection shall be issued a one (1) year~~[temporary]~~ provisional~~[teaching]~~ certificate, renewable for a maximum of two (2) additional years with approval of the Education Professional Standards Board.~~[provided that the candidate:]~~

(a) The candidate shall possess:

1. ~~[Possesses]~~A bachelor's degree with a declared academic major in the area in which certification is sought ***or a graduate degree in a field related to the area in which certification is sought***~~[and a cumulative grade point average of 3.0 on a 4.0 scale, or a professional or graduate degree in a field related to the area in which certification is sought];~~
2. ***A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;***~~[Has a minimum score of five hundred (500) on the verbal section and a minimum score of four (4) on the analytical writing section of the Graduate Record Examination (GRE). In addition, teachers of mathematics and physical and biological sciences shall have a minimum score of four hundred fifty (450) on the quantitative section of the GRE.]~~
3. ***A passing score on the GRE or equivalent as designated by the Education Professional Standards Board.*** A candidate who has a ***terminal***~~[professional]~~ degree shall be exempt from the requirements of this subparagraph; and
- 4.~~[3.]~~ ***A passing score on the academic content assessment***~~[Passes written tests designated by the Education Professional Standards Board for content knowledge] in the area in which certification is being sought as designated by the Education Professional Standards Board~~~~[specific teaching field of the applicant with minimum scores in each test as set by the board].~~

- ~~(b)~~ Prior to receiving the ***one (1) year***~~[temporary]~~ provisional certificate or during the first year of the certificate, the teacher shall complete the following:

1. For elementary teaching, the individual shall successfully complete the equivalent of a two hundred forty (240) hour institute, based on six (6) hour days for eight (8) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board. The content shall include research-based teaching strategies in reading and math, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
2. For middle and secondary teaching, the individual shall successfully complete the equivalent of a one hundred eighty (180) hour institute, based on six (6) hour days for six (6) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board and shall include research-based teaching strategies, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.

- (c) The candidate shall participate in the teacher internship program under ~~subsections (5), (6), (7), and (8) of KRS 161.030.~~ After successful completion of the internship program, the candidate shall receive a ~~regular~~ professional certificate *and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate.*
- (9) Option 8: Certification of a Teach for America participant to teach in elementary, middle, or high schools. Nothing in this subsection shall conflict with the participation criteria of the Teach for America program.
- ~~{(a)}~~ An individual certified under this subsection shall be issued a one (1) year ~~{temporary}~~ provisional ~~{teaching}~~ certificate. ~~{if}~~
- (a) The candidate *shall possess*:
1. ~~{Has}~~ An offer of employment from a local school district;
 2. ~~{Possesses}~~ A bachelor's degree;
 3. *A successful completion of* ~~{Successfully completes}~~ the summer training institute and ongoing professional development required by Teach for America, including instruction in goal-oriented, standards-based instruction, diagnosing and assessing students, lesson planning and instructional delivery, classroom management, maximizing learning for diverse students, and teaching methodologies; and
 4. *A passing score on the academic content assessment in the area in which certification is being sought as designated by the Education Professional Standards Board* ~~{Successfully passes written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the candidate with minimum scores in each test as set by the board}.~~
- (b) The ~~{temporary}~~ provisional certificate granted under paragraph (a) of this subsection may be renewed two (2) times with a recommendation of the superintendent and approval of the Education Professional Standards Board.
- (c) A Teach for America participant who is approved for a second renewal of his or her ~~{temporary}~~ provisional certificate under paragraph (b) of this subsection may participate in the *teacher* internship program under KRS 161.030.
- (d) A Teach for America participant shall be issued a professional certificate upon the participant's successful completion of the internship program and assessments relating to teaching of subject matter required by the Education Professional Standards Board under KRS 161.030.
- (e) Notwithstanding any statute or administrative regulation to the contrary, a teacher certified under this subsection shall have ten (10) years from the date that the teacher successfully completed the internship program to complete a master's degree or fifth year program, or the equivalent as specified by the Education Professional Standards Board in administrative regulation. ~~{~~
- ~~{(f)}~~ ~~Alternative certification under this subsection shall be considered a pilot program and shall be an option from July 15, 2010, until the federal Race to the Top funding program under Sections 14005 and 14006 of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, is completed, except that the Education Professional Standards Board may promulgate administrative regulations in accordance with KRS Chapter 13A to make this a permanent option.}~~
- (10) A public school teacher certified under subsections (2) to (9) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher. ~~{~~
- ~~{(11)}~~ ~~Veterans who were discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release, and who have at least four (4) years of occupational experience in the area in which they seek certification as a vocational industrial education teacher, shall apply for certification under and meet the requirements of the administrative regulations promulgated by the Education Professional Standards Board.}~~
- ~~(11)~~ ~~{(12)}~~ Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
- (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

- (c) Successful completion of the teacher internship **program** requirement required under KRS 161.030. ~~{~~
- ~~(13) A teacher who is fully certified in Kentucky and who is seeking an additional certification is not required to repeat the Kentucky teacher internship program.~~
- ~~(14) Under KRS 161.030(5), a candidate for alternative certification may serve his or her internship in a nonpublic school.~~

➔Section 3. KRS 161.095 is amended to read as follows:

~~{By July 1, 1997,}~~ The Education Professional Standards Board, with the advice of the Kentucky Board of Education, shall promulgate administrative regulations to establish procedures for a teacher to maintain his **or her** certificate by successfully completing meaningful continuing education. The Education Professional Standards Board shall develop standards for continuing education related to maintaining a certificate, including university courses, an advanced degree, or a combination of ~~{university courses,}~~ field-based experience, individual research, and approved professional development. The Education Professional Standards Board shall establish a system of quality assurance related to continuing education activities and certification requirements. ~~{The requirements shall become effective January 1, 1998.}~~

Signed by Governor March 16, 2017.

CHAPTER 15

(SB 17)

AN ACT relating to the expression of religious or political viewpoints in public schools and public postsecondary institutions.

WHEREAS, the General Assembly is dedicated to enforcing the constitutional rights of its citizens, which are secured by the Constitutions of the United States of America and the Commonwealth of Kentucky;

NOW, THEREFORE,

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

➔Section 1. KRS 158.183 is amended to read as follows:

- (1) ***Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky***, a student shall have the right to carry out an activity described in any of paragraphs (a) to (j) ~~{(d)}~~ of subsection (2) of this section, if the student does not:
- (a) Infringe on the rights of the school to:
 - 1. Maintain order and discipline;
 - 2. Prevent disruption of the educational process; and
 - 3. Determine educational curriculum and assignments;
 - (b) Harass other persons or coerce other persons to participate in the activity; or
 - (c) Otherwise infringe on the rights of other persons.
- (2) ***Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky***, and subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:
- (a) Pray ***or engage in religious activities*** in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, ~~{or}~~ speak on, ***or engage in*** nonreligious matters alone or with other students in the public school;
 - (b) Express religious ***or political*** viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious ***or nonpolitical*** topics or subjects in the school;

- (c) *Express religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments free from discrimination or penalty based on the religious or political content of the submissions;*
 - (d) *Speak to and attempt to discuss religious or political viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious or nonpolitical viewpoints with other students. However, any student may demand that this speech or these attempts to share religious or political viewpoints not be directed at him or her;*
 - (e)~~(d)~~ *Distribute religious or political literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious or nonpolitical topics or subjects in the school;~~and~~*
 - (f)~~(e)~~ *Display religious messages on items of clothing to the same extent that a student is permitted to display nonreligious messages on items of clothing;*
 - (g) *Access public secondary school facilities during noninstructional time as a member of a religious student organization for activities that may include prayer, Bible reading, or other worship exercises to the same extent that members of nonreligious student organizations are permitted access during noninstructional time;*
 - (h) *Use school media, including the public address system, the school newspaper, and school bulletin boards, to announce student religious meetings to the same extent that a student is permitted to use school media to announce student nonreligious meetings;*
 - (i) *Meet as a member of a religious student group during noninstructional time in the school day to the same extent that members of nonreligious student groups are permitted to meet, including before and after the school day; and*
 - (j) *Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.*
- (3) *Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall ensure that:*
- (a) *1. The selection of students to speak at official events is made without regard to the religious or political viewpoint of the student speaker;*
 - 2. The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and*
 - 3. If the content of the student's speech is such that a reasonable observer may perceive affirmative school sponsorship or endorsement of the student speaker's religious or political viewpoint, the school shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the school;*
 - (b) *Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations; and*
 - (c) *No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct these activities.*
- (4) *Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall permit public schools in the district to sponsor artistic or theatrical programs that advance students' knowledge of society's cultural and religious heritage, as well as provide opportunities for students to study and perform a wide range of music, literature, poetry, and drama.*
- (5) *No action may be maintained under KRS 158.181 to 158.187 unless the student has exhausted the following administrative remedies;*

- (a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;
- (b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;
- (c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and
- (d) Only after the superintendent's investigation and action may a student or the student's parent or legal guardian pursue any other legal action.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

A teacher in a public school shall be permitted to:

- (1) *Teach about religion with the use of the Bible or other scripture, but without providing religious instruction, for the secular study of:*
 - (a) *The history of religion;*
 - (b) *Comparative religions;*
 - (c) *The Bible as literature;*
 - (d) *The role of religion in the history of the United States and other countries; and*
 - (e) *Religious influences on art, music, literature, and social studies; and*
- (2) *Teach about religious holidays, including religious aspects, and celebrate the secular aspects of holidays.*

➔Section 3. KRS 158.186 is amended to read as follows:

The Department of Education shall send *electronic or paper* copies of *Section 1 of this Act and KRS 158.195*~~[158.181 to 158.187]~~ to each local school board,~~[and]~~ school-based decision making council, *and certified employee* in Kentucky on an annual basis.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Consistent with its obligations to respect the rights secured by the Constitutions of the United States and the Commonwealth of Kentucky, a governing board of a public postsecondary education institution shall ensure that:

- (1) *The expression of a student's religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments is free from discrimination or penalty based on the religious or political content of the submissions;*
- (2)
 - (a) *The selection of students to speak at official events is made in a viewpoint-neutral manner; and*
 - (b) *The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and*
 - (c) *If the content of the student's speech is such that a reasonable observer may perceive affirmative institutional sponsorship or endorsement of the student speaker's religious or political viewpoint, the institution shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the institution;*
- (3) *Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations;*
- (4) *No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct such activities; and*
- (5) *There shall be no restrictions on the time, place, and manner of student speech that occurs in the outdoor areas of campus or is protected by the First Amendment of the United States Constitution, except for restrictions that are:*
 - (a) *Reasonable;*

- (b) *Justified without reference to the content of the regulated speech;*
- (c) *Narrowly tailored to serve a compelling governmental interest; and*
- (d) *Limited to provide ample alternative options for the communication of the information.*

Signed by Governor March 16, 2017.

CHAPTER 16

(HB 207)

AN ACT relating to insurance.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) 1. *The board of directors of a risk retention group shall have a majority of independent directors.*
- 2. *No director shall qualify as independent unless the board of directors affirmatively determines that the director has no material relationship with the risk retention group. Each risk retention group shall disclose these determinations to the commissioner at least annually.*
- 3. *No director shall be deemed to have a material relationship with the risk retention group solely because the director is a direct or indirect owner or member of the risk retention group or is an officer, director, or employee of an owner or member of the risk retention group.*
- (b) *If the risk retention group is a reciprocal insurer, then an attorney-in-fact shall be required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors pursuant to this section. Unless prohibited under state law, service providers of a reciprocal risk retention group shall contract with the risk retention group and not the attorney-in-fact.*
- (c) *No person shall qualify as independent until one (1) year after the end of a material relationship. For material relationships established pursuant to subsection (9)(a) of Section 2 of this Act, no person shall qualify as independent until one (1) year after the compensation or payment of any other item of value from the risk retention group or a consultant or service provider to the risk retention group falls below the threshold established in that subsection.*
- (2) (a) *No contract with a service provider that creates or results in a material relationship shall be entered into by a risk retention group unless the risk retention group has provided written notice to the commissioner of its intention to enter into the contract at least thirty (30) days prior to the execution of the contract and the commissioner has not disapproved the proposed contract within the notice period.*
- (b) *The term of any material service provider contract with a risk retention group shall not exceed five (5) years.*
- (c) *Any material service provider contract, or its renewal, shall require the approval of the majority of a risk retention group's independent directors. At any time, the risk retention group's board of directors has the right to terminate any service provider contract for cause after providing adequate notice as defined in the contract.*
- (d) *For the purposes of this subsection, "service provider" includes:*
 - 1. *Captive managers;*
 - 2. *Auditors;*
 - 3. *Accountants;*
 - 4. *Actuaries;*

5. *Investment advisors;*
 6. *Lawyers other than defense counsel retained by the risk retention group to defend claims, unless the amount of fees paid to the defense counsel creates or results in a material relationship;*
 7. *Managing general underwriters; and*
 8. *Other parties responsible for underwriting, determining rates, collecting premiums, adjusting and settling claims, or preparing financial statements;*
- (3) *A risk retention group's board of directors shall adopt a written policy in its plan of operation that requires the board to:*
- (a) *Ensure that all owners of the risk retention group receive evidence of ownership interest;*
 - (b) *Develop a set of corporate governance standards applicable to the risk retention group that satisfies, at a minimum, the requirements of this section;*
 - (c) *Oversee the evaluation of the risk retention group's management including but not limited to the performance of the captive manager, managing general underwriter, or other party or parties responsible for underwriting, determining rates, collecting premiums, adjusting or settling claims, or preparing financial statements;*
 - (d) *Review and approve the amount to be paid for all material service providers; and*
 - (e) *Review and approve, at least annually:*
 1. *The goals and objectives relevant to the risk retention group's compensation of officers and service providers;*
 2. *The officers' and service providers' performance in light of those goals and objectives; and*
 3. *The continued engagement of the officers and material service providers.*
- (4) (a) *A risk retention group shall have an audit committee composed of at least three (3) independent directors. Non-independent directors may participate in the activities of the audit committee if invited by the committee members, but cannot be members of the committee.*
- (b) *The audit committee shall have a written charter that defines the committee's purpose, which, at a minimum, shall include the following:*
1. *Assist board oversight of:*
 - a. *The integrity of the financial statements;*
 - b. *Compliance with legal and regulatory requirements; and*
 - c. *The qualification, independence, and performance of the independent auditor and actuary;*
 2. *Discuss the annual audited financial statements and the quarterly financial statements with management;*
 3. *Discuss the annual audited financial statements and, if advisable, the quarterly financial statements with its independent auditors;*
 4. *Discuss policies with respect to risk assessment and risk management;*
 5. *Meet separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors;*
 6. *Review with the independent auditors any audit problems or difficulties and management's response;*
 7. *Set clear hiring policies regarding the hiring of employees or former employees of the independent auditor;*
 8. *Require external auditors to rotate the lead or coordinating audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for*

reviewing that audit so that neither individual performs audit services for more than five (5) consecutive fiscal years; and

9. *Report regularly to the board of directors.*
- (c) *The commissioner may waive the requirement to establish an audit committee composed of independent directors if the risk retention group demonstrates to the commissioner that:*
 1. *It is impracticable to do so; and*
 2. *The risk retention group's board of directors is otherwise capable of accomplishing the purposes of an audit committee.*
- (5) (a) *The governance standards adopted by the board of directors pursuant to paragraph (3)(b) of this section shall include:*
 1. *The process by which the directors are elected by the owners;*
 2. *Director qualification standards;*
 3. *Director responsibilities;*
 4. *Director access to management and, as necessary and appropriate, independent advisors;*
 5. *Director compensation;*
 6. *Director orientation and continuing education;*
 7. *The policies and procedures for management succession;*
 8. *The policies and procedures for annual performance evaluation of the board; and*
 9. *A code of business conduct and ethics for directors, officers, and employees.*
- (b) *The board of directors shall make the governance standards required by this section available through electronic or other means and provide the information to the risk retention group's members upon request.*
- (6) (a) *The code of business conduct and ethics for directors, officers, and employees required by subsection (5) of this section shall address the following topics:*
 1. *Conflicts of interest;*
 2. *Matters covered under the corporate opportunities doctrine under the state of domicile;*
 3. *Confidentiality;*
 4. *Fair dealing;*
 5. *Protection and proper use of risk retention group assets;*
 6. *Compliance with all applicable laws, rules, and regulations; and*
 7. *Requiring the reporting of any illegal or unethical behavior which affects the operation of the risk retention group.*
- (b) *Any waivers of the code for directors or executive officers shall be promptly disclosed to the board of directors.*
- (7) *The captive manager, president, or chief executive officer of the risk retention group shall promptly notify the commissioner in writing if he or she becomes aware of any material noncompliance with any of the provisions of this section.*

➔Section 2. KRS 304.45-020 is amended to read as follows:

As used in this subtitle:

- (1) *"Board of directors" or "board" means the governing body of a risk retention group elected by its owners to establish policy, elect or appoint officers and committees, and make other governing decisions.*
- (2) *"Commissioner" means the commissioner of the Kentucky Department of Insurance or the insurance supervisor of another state;*

- (3)~~(2)~~ "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by:
- (a) Any person who performs that work; or
 - (b) Any person who hires an independent contractor to perform that work, but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;
- (4) ***"Director" means a natural person designated in the articles of a risk retention group, or designated, elected, or appointed by any other manner, name, or title to act as a director;***
- (5)~~(3)~~ "Domicile," for the purposes of determining the state in which a purchasing group is domiciled, means:
- (a) For a corporation, the state in which the purchasing group is incorporated; and
 - (b) For an unincorporated entity, the state of its principal place of business;
- (6)~~(4)~~ "Hazardous financial condition" means a condition in which, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able:
- (a) To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
 - (b) To pay other obligations in the normal course of business;
- (7)~~(5)~~ "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risks which is determined to be insurance under the laws of this state;
- (8)~~(6)~~ "Liability":
- (a) Means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to ~~those~~~~such~~ other persons resulting from or arising out of:
 - 1. Any business (whether profit or nonprofit), trade, product, services (including professional services), premises, or operations; or
 - 2. Any activity of any state or local government, or any agency or political subdivision thereof; but
 - (b) Does not include personal risk liability or an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. secs. 51 et seq.);
- (9) ***"Material relationship" includes but is not limited to:***
- (a) ***The receipt in any one (1) twelve (12) month period by a person, a member of the person's immediate family, or any business with which the person is affiliated of compensation or payment of any other item of value from the risk retention group or a consultant or service provider to the risk retention group that exceeds or equals the greater of the following, as measured at the end of any fiscal quarter falling in the twelve (12) month period:***
 - 1. ***Five percent (5%) of the risk retention group's gross written premium for the twelve (12) month period; or***
 - 2. ***Two percent (2%) of the risk retention group's surplus for the twelve (12) month period;***
 - (b) ***A director or immediate family member of a director who is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group; or***
 - (c) ***A director or immediate family member of a director who is employed as an executive officer of another company where any of the risk retention group's present executives serve on that other company's board of directors;***
- (10) ***"Material service provider contract" means a contract between a risk retention group and a service provider where the amount to be paid for the contract exceeds or equals the greater of the following:***
- (a) ***Five percent (5%) of the risk retention group's annual gross written premium; or***

(b) Two percent (2%) of the risk retention group's surplus;

~~(11)(7)~~ "Personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage arising from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection (6) of this section;

~~(12)(8)~~ "Plan of operation or a feasibility study" means an analysis which presents the expected activities and results of a risk retention group, including, at a minimum:

- (a) Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which ~~its~~~~[such]~~ members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;
- (b) For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification system for each kind of insurance the group intends to offer;
- (c) Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;
- (d) Pro forma financial statements and projections;
- (e) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;
- (f) Identification of management, underwriting, and claim procedures, marketing methods, managerial oversight methods, and investment policies; and
- (g) ~~Any~~~~[Such]~~ other matters as may be prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state in which the risk retention group is chartered;

~~(13)(9)~~ "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of ~~that~~~~[such]~~ person when the incident giving rise to the claim occurred;

~~(14)(10)~~ "Purchasing group" means any group which:

- (a) Has as one (1) of its purposes the purchase of liability insurance on a group basis;
- (b) Purchases ~~that~~~~[such]~~ insurance only for its group members and only to cover their similar or related liability exposure, as described in paragraph (c) of this subsection;
- (c) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and
- (d) Is domiciled in any state;

~~(15)(11)~~ "Risk retention group" means any corporation or other limited liability association:

- (a) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members;
- (b) Which is organized for the primary purpose of conducting the activity described under paragraph (a) of this subsection;
- (c) Which:
 1. Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or
 2. Before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before ~~that~~~~[such]~~ date, had certified to the commissioner of at least one (1) state that it satisfied the capitalization requirements of ~~that~~~~[such]~~ state, except that any ~~[such]~~ group shall be considered to be a risk retention group only if it has engaged in business continuously since ~~that~~~~[such]~~ date and only for the purpose of continuing to provide insurance to cover product liability or completed operations

liability (as ~~the[such]~~ terms were defined under the Product Liability Risk Retention Act of 1981 prior to the date of the enactment of the Liability Risk Retention Act of 1986);

- (d) Which does not exclude any person from membership in the group solely to provide for members of ~~the[such]~~ group a competitive advantage over ~~that[such]~~ person;
- (e) Which:
 - 1. Has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by ~~the[such]~~ group; or
 - 2. Has as its sole owner an organization which has as its members only persons who comprise the membership of the risk retention group and as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by ~~the[such]~~ group;
- (f) Whose members are engaged in businesses or activities similar or related with respect to the liability to which ~~the[such]~~ members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and
- (g) Whose activities do not include the provision of insurance other than:
 - 1. Liability insurance for assuming and spreading all or any portion of the liability of its group members; and
 - 2. Reinsurance with respect to the liability of any other risk retention group or any members of ~~the[such]~~ other group which is engaged in businesses or activities so that ~~the[such]~~ group or member meets the requirement described in paragraph (f) of this subsection from membership in the risk retention group and which provides ~~the[such]~~ reinsurance; and
- (h) The name of which includes the phrase "risk retention group"; and

~~(16)(12)~~ "State" means any state of the United States or the District of Columbia.

➔Section 3. KRS 304.45-030 is amended to read as follows:

- (1) A risk retention group shall, pursuant to the provisions of this chapter, be chartered and licensed to write only liability insurance pursuant to this subtitle, and, except as otherwise provided in this subtitle, shall comply with all of the laws, regulations, and requirements applicable to such insurers chartered and licensed in this state and with KRS 304.45-040 to the extent such requirements are not a limitation on laws, regulations, or requirements of this state.
- (2) Notwithstanding any other provision to the contrary, all risk retention groups chartered in this state shall file with the department and the National Association of Insurance Commissioners (NAIC), an annual statement in a form prescribed by the NAIC and completed in accordance with the NAIC instructions and the NAIC accounting practices and procedures manual.
- (3) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of this state a plan of operation or a feasibility study and revisions of ~~the[such]~~ plan or study if the group intends to offer any additional kinds of liability insurance. The **risk retention** group shall not offer any additional kinds of liability insurance in this state or any other state until a revision of ~~the[such]~~ plan or study is approved by the commissioner. ***In the event of any other subsequent material change in any item of the plan or study, the risk retention group shall submit an appropriate revision to the commissioner within ten (10) days of the change.***
- (4) (a) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form ***the following information:***
 - 1. The identity of the initial members of the group;~~;~~
 - 2. The identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;~~;~~
 - 3. The amount and nature of initial capitalization;~~;~~
 - 4. The coverages to be afforded;~~;~~ and
 - 5. The states in which the group intends to operate.

- (b) Upon receipt of the information, the commissioner shall forward ~~the [such]~~ information to the National Association of Insurance Commissioners. Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of KRS 304.45-040 and all other sections of this subtitle.
- (5) A risk retention group shall, within ten (10) days, notify the commissioner of any changes in the identity of those individuals who provide administrative services or otherwise influence or control the activities of the group, the coverages afforded, and the states in which the group operates.
- (6) A risk retention group chartered and licensed in this state as a product liability risk retention group under the provisions of KRS Chapter 304 in effect prior to July 13, 1990, may continue to act as ~~one [such]~~ without complying with this subtitle as long as it complies with the provisions of KRS Chapter 304 in effect prior to July 13, 1990. The exception provided in this subsection shall cease to apply to any product liability risk retention group which offers any other kind of liability insurance other than product liability or completed operations liability insurance.

➔Section 4. KRS 304.45-040 is amended to read as follows:

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state shall observe and abide by the laws of this state as follows:

- (1) Before offering insurance in this state, a risk retention group shall submit to the commissioner:
 - (a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering and licensing, its principal place of business, and ~~any [such]~~ other information, including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under KRS 304.45-020(15)~~((11))~~;
 - (b) A copy of its plan of ~~operation [operations]~~ or a feasibility study and revisions of ~~the [such]~~ plan or study submitted to its state of domicile, but the provision relating to the submission of a plan of operation or a feasibility study shall not apply as to any kind or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before ~~that [such]~~ date by any risk retention group which had been chartered and operating for not less than three (3) years ~~at that time [before such date]~~; and
 - (c) A statement of registration which designates the Secretary of State as its agent for the purpose of receiving service of legal documents or process.
- (2) Any risk retention group doing business in this state shall submit to the commissioner:
 - (a) A copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;
 - (b) A copy of each financial, market conduct, or other examination of the risk retention group as certified by the commissioner or public official conducting the examination;
 - (c) Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group; and
 - (d) ~~Any [Such]~~ information as may be required to verify its continuing qualification as a risk retention group under KRS 304.45-020(15)~~((11))~~.
- (3) A risk retention group shall, within ten (10) days, notify the commissioner of any changes in any of the information required in subsections (1) and (2) of this section.
- (4) Any risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within sixty (60) days after a request by the commissioner of this state. Any ~~[such]~~ examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioners' examiner handbook. ~~The [Such]~~ examinations shall be conducted in accordance with KRS 304.2-210 to 304.2-300.
- (5) Any application used or any policy issued by a risk retention group shall contain in ten (10) point boldface type the following legend:

NOTICE

THIS POLICY IS ISSUED BY YOUR RISK RETENTION GROUP. YOUR RISK RETENTION GROUP MAY NOT BE SUBJECT TO ALL OF THE INSURANCE LAWS AND REGULATIONS OF YOUR STATE. STATE INSURANCE INSOLVENCY GUARANTY FUNDS ARE NOT AVAILABLE FOR YOUR RISK RETENTION GROUP.

- (6) In the solicitation or sale of insurance, a risk retention group shall not:
 - (a) Solicit or sell insurance to any person who is not eligible for membership in ~~the~~~~such~~ group; and
 - (b) Solicit or sell insurance issued by, or otherwise operate, a risk retention group that is in a hazardous financial condition or is financially impaired.
- (7) No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of ~~the~~~~such~~ risk retention group, except if all members of the risk retention group are insurance companies.
- (8) A risk retention group shall not offer insurance policy coverage prohibited by statute or regulation or declared unlawful by the highest court of this state.
- (9) A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a commissioner if there has been a finding of financial impairment after an examination under subsection (4) of this section.
- (10) A risk retention group registered in this state as a product liability risk retention group under the provisions of KRS Chapter 304 in effect prior to July 13, 1990, may continue to act as ~~one~~~~such~~ without complying with this subtitle as long as it complies with the provisions of KRS Chapter 304 in effect prior to July 13, 1990. The exception provided in this subsection shall cease to apply to any product liability risk retention group which offers kinds of liability insurance other than product liability or completed operations liability insurance.

➔SECTION 5. KRS 304.45-050 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A purchasing group and its insurer or insurers shall be subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers shall be exempt from any law regarding liability insurance for the purchasing group that would:

- (1) *Prohibit the establishment of a purchasing group;*
- (2) *Make it unlawful for an insurer to provide or offer to provide to a purchasing group or its members insurance on a basis that provides advantages based on the purchasing group's loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;*
- (3) *Prohibit a purchasing group or its members from purchasing insurance on a group basis described in subsection (2) of this section;*
- (4) *Prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;*
- (5) *Require that a purchasing group have a minimum number of members, common ownership or affiliation, or certain legal form;*
- (6) *Require that a certain percentage of a purchasing group obtain insurance on a group basis;*
- (7) *Otherwise discriminate against a purchasing group or any of its members; or*
- (8) *Require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.*

➔Section 6. KRS 304.45-060 is amended to read as follows:

- (1) A purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which shall:
 - (a) Identify the state in which the purchasing group is domiciled;
 - (b) Specify the kinds and classification of liability insurance which the purchasing group intends to purchase;

- (c) Identify the insurance company or companies from which the purchasing group intends to purchase its insurance and the domicile or domiciles of ~~the~~~~[such]~~ insurance company or insurance companies;
 - (d) Specify the method by which and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state;
 - (e) Identify the principal place of business of the purchasing group; and
 - (f) Provide ~~any~~~~[such]~~ other information as may be required by the commissioner to verify that the purchasing group is qualified under KRS 304.45-020(~~14~~)(~~10~~) and is otherwise in compliance with the laws of this state.
- (2) A purchasing group shall, within ten (10) days, notify the commissioner of any changes in any of the items set forth in subsection (1) of this section.
- (3) The purchasing group shall register with and designate the Secretary of State as its agent solely for the purpose of receiving legal documents or process, except that ~~this~~~~[such]~~ requirement shall not apply in the case of a purchasing group:
- (a) Which in any state of the United States:
 - 1. Was domiciled before April 1, 1986; and
 - 2. Is domiciled on and after October 27, 1986;
 - (b) Which:
 - 1. Before October 27, 1986, purchased insurance from an insurer licensed in any state; and
 - 2. Since October 27, 1986, purchased its insurance from an insurer licensed in any state;
 - (c) Which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 (P.L. 97-45) before October 27, 1986; and
 - (d) Which does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.
- (4) Any purchasing group which was doing business in this state prior to July 13, 1990, shall, within thirty (30) days after July 13, 1990, furnish notice to the commissioner pursuant to the provisions of this subtitle and furnish the information required pursuant to this subtitle.

➔Section 7. This Act takes effect on January 1, 2018.

Signed by Governor March 16, 2017.

CHAPTER 17

(HB 223)

AN ACT relating to interest.

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

➔Section 1. KRS 360.040 is amended to read as follows:

- (1) ***Except as provided in subsections (2), (3), and (4) of this section, a judgment, including a judgment for prejudgment interest, shall bear six***~~[twelve]~~ percent (~~6%~~)(~~12%~~) interest compounded annually from ~~the date the judgment is entered~~~~[its date]~~. A judgment may be for the principal and accrued interest; ~~but if rendered for accruing interest on a written obligation, it shall bear interest in accordance with the instrument reporting such accruals, whether higher or lower than twelve percent (12%).~~
- (2) ***A judgment for unpaid child support payments shall bear twelve percent (12%) interest compounded annually from the date the judgment is entered.***
- (3) ***A judgment rendered on a contract, promissory note, or other written obligation shall bear interest at the interest rate established in that contract, promissory note, or other written obligation.***

- (4) ~~Provided, that~~ When a claim for unliquidated damages is reduced to judgment, such judgment may bear less interest than ~~six~~~~twelve~~ percent ~~(6%)~~~~((12%))~~ if the court rendering such judgment, after a hearing on that question, is satisfied that the rate of interest should be less than ~~six~~~~twelve~~ percent ~~(6%)~~~~((12%))~~. All interested parties must have due notice of said hearing.

➔Section 2. KRS 342.040 is amended to read as follows:

- (1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of ~~six~~~~twelve~~ percent ~~(6%)~~~~((12%))~~ per annum on each installment from the time it is due until paid, except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be ~~twelve~~~~eighteen~~ percent ~~(12%)~~~~((18%))~~ per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.
- (2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.
- (3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.
- (4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his or her last known address.

➔Section 3. KRS 360.010 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act,*** the legal rate of interest is eight percent (8%) per annum, but any party or parties may agree, in writing, for the payment of interest in excess of that rate as follows: (a) at a per annum rate not to exceed four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the transaction is consummated or nineteen percent (19%), whichever is less, on money due or to become due upon any contract or other obligation in writing where the original principal amount is fifteen thousand dollars (\$15,000) or less, and (b) at any rate on money due or to become due upon any contract or other obligation in writing where the original principal amount is in excess of fifteen thousand dollars (\$15,000); and any such party or parties, and any party or parties who may assume or guarantee any such contract or obligation, shall be bound for such rate of interest as is expressed in any such contract, obligation, assumption, or guaranty, and no law of this state prescribing or limiting interest rates shall apply to any such agreement or to any charges which pertain thereto or in connection therewith; provided, however, nothing herein contained shall be construed to amend, repeal, or abrogate any other law of this state pertaining to any particular types of transactions for which the maximum rate of interest is specifically prescribed or provided.
- (2) Any state or national bank may charge ten dollars (\$10) for any loan negotiated at the bank in this state, even if the legal interest does not amount to that sum.

➔Section 4. Section 1 of this Act shall apply to all judgments entered by a court on or after the effective date of this Act.

➔Section 5. Section 2 of this Act shall apply to all worker's compensation orders entered or settlements approved on or after the effective date of this Act.

Signed by Governor March 16, 2017.

CHAPTER 18

(HB 26)

AN ACT relating to inspections by sheriffs.

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

➔Section 1. KRS 70.170 is amended to read as follows:

- (1) Each sheriff performing the duties required under the provisions of KRS 70.150 ~~and 70.160~~ shall be allowed the amount of thirty-six hundred dollars (\$3,600) annually payable out of the State Treasury at the rate of three hundred dollars (\$300) per month for such services. The first such monthly payment shall be for the month of July, 1966, and the check therefor shall be forwarded to the sheriff concerned on or about the last working day of that month and each month thereafter.
- (2) The allowance authorized in subsection (1) of this section shall be considered as operating expenses of the sheriff's office and shall not be considered as part of his compensation. Sheriffs shall not be required to keep records verifying the expenditures from the allowance provided by the state.

➔Section 2. KRS 241.140 is amended to read as follows:

The functions of each county administrator shall be the same, with respect to local licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a county administrator may be less stringent than statutes relative to alcoholic beverage control or than the regulations of the board. If any city appoints its own administrator under KRS 241.170, the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city, unless the department determines that the city does not have an adequate police force of its own or under KRS 70.540, 70.150, ~~70.160,~~ and 70.170.

➔Section 3. KRS 241.170 is amended to read as follows:

- (1) (a) The city administrator in each city of the first class or the administrator in a consolidated local government, and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The city administrator in each city of the first class or the administrator in a county containing a consolidated local government, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with boundaries of the city of the first class or the boundaries of the county in a county containing a consolidated local government. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (b) Only those cities with a population equal to or greater than three thousand (3,000) or more based upon the most recent federal decennial census, or those cities with a population of less than three thousand (3,000) based upon the most recent federal decennial census that had appointed an administrator prior to August 1, 2014, that are located in a county containing a consolidated local government are authorized to appoint an administrator. If a city authorized under this paragraph appoints its own administrator under this paragraph and KRS 241.160, the administrator of a consolidated local government in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of such a city, unless the department determines that the city does not have an adequate police force of its own or pursuant to KRS 70.150,~~70.160,~~ 70.170, and 70.540.
- (2) The city administrator in each city, other than a consolidated local government, shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor.
- (3) No person shall be an administrator, an investigator, or an employee of the city or a consolidated local government under the supervision of the administrator, who would be disqualified to be a member of the board under KRS 241.100.

➔Section 4. The following KRS section is repealed:

70.160 Sheriff to visit and inspect dance halls and roadhouses.

Signed by Governor March 16, 2017.

CHAPTER 19

(HB 237)

AN ACT relating to donations of food and grocery products.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

- (1) *"Apparently fit grocery product" means a grocery product that meets all consumer safety standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable because of appearance, age, date labeling, freshness, grade, size, surplus, or other conditions;*
- (2) *"Apparently wholesome food" means food that meets all consumer safety standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable because of appearance, age, date labeling, freshness, grade, size, surplus, or other conditions;*
- (3) *"Donate" means to give without requiring anything of monetary value from the recipient. The term donate includes giving by a nonprofit organization to another nonprofit organization, even if the donor organization has charged a fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value;*
- (4) *"Food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption;*
- (5) *"Gleaner" means a person who harvests an agriculture crop that has been donated by the owner for:*
 - (a) *Free distribution to people; or*
 - (b) *Donation to a nonprofit organization for ultimate distribution to people;*
- (6) *"Grocery product" means a nonfood grocery product, including but not limited to a disposable paper or plastic product, household cleaning product, laundry detergent cleaning product, or miscellaneous household item;*
- (7) *"Intentional misconduct" means conduct by a person with actual knowledge at the time of the conduct that the conduct is harmful to the health and well-being of another person;*
- (8) *"Nonprofit organization" means an incorporated or unincorporated entity that:*
 - (a) *Is operating for religious, charitable, or educational purposes; and*
 - (b) *Does not provide net earnings to, or operate in any manner that inures to the benefit of any officer, employee, or shareholder of the entity; and*
- (9) *"Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, restaurant, caterer, farmer, nonprofit food distributor, or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A person, gleaner, or paid or unpaid representative of a nonprofit organization shall not be subject to any civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to people, unless the acts constitute intentional misconduct.*

- (b) *The protection from liability created by this subsection extends to an apparently wholesome food or apparently fit grocery product bearing a past-date expiration date, sell-by date, use-by date, or other date.*
- (2) (a) *A nonprofit organization or paid or unpaid representative of a nonprofit organization shall not be subject to any civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to people, unless the acts constitute intentional misconduct.*
- (b) *The protection from liability created by this subsection extends to an apparently wholesome food or apparently fit grocery product bearing a past-due expiration date, sell-by date, use-by date, or other date.*
- (3) *A person who allows the collection or gleaning of donations on property owned or occupied by the person, by gleaners or by paid or unpaid representatives of a nonprofit organization for ultimate distribution to people, shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative unless the acts constitute intentional misconduct.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If some or all of any food or grocery products donated by a person or gleaner to a nonprofit organization do not meet consumer safety standards imposed by federal, state, and local laws and regulations, the person or the gleaner who donates the food or grocery products shall not be subject to civil or criminal liability in accordance with this section, if the nonprofit organization that receives the donated food or grocery products:

- (1) *Is informed by the donor of the distressed or defective condition of the donated food or grocery product;*
- (2) *Agrees to recondition the donated food or grocery product to comply with consumer safety standards prior to distribution; and*
- (3) *Is knowledgeable about the standards to properly recondition the donated food or grocery product.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 4 of this Act shall not be construed to create any liability for any person or entity. Nothing in Sections 1 to 4 of this Act shall be construed to supersede any federal or state regulations.

➔Section 5. The following KRS sections are repealed:

413.247 Definitions.

413.248 Liability of donor for damages resulting from condition of donated food.

Signed by Governor March 16, 2017.

CHAPTER 20

(HB 239)

AN ACT relating to the Kentucky Board of Optometric Examiners.

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

➔Section 1. KRS 320.280 is amended to read as follows:

- (1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee ***which shall be established by administrative regulation promulgated by the board*** ~~of not more than two hundred dollars (\$200)}~~. Not later than February 15 of each year, the board shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon a form prescribed by the board and the optometrist shall furnish the information required by the form.
- (2) As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of

optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length and content of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year. Attendance shall be at a course or by a sponsor approved by the board. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board may waive the continuing education requirement in cases of illness or undue hardship.

- (3) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Signed by Governor March 16, 2017.

CHAPTER 21

(HB 144)

AN ACT relating to the operation of a motor vehicle.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "solid waste collection service vehicle" means a vehicle used by a solid waste collection service provider registered with a county pursuant to KRS 224.43-315(2).*
- (2) *Upon approaching and passing a stationary solid waste collection vehicle that is giving a visual signal by alternately displaying flashing yellow, red, white, or amber lights, the operator of the approaching motor vehicle shall yield the right of way to the solid waste collection service vehicle or any collection service employees by:*
 - (a) *Reducing to, and maintaining, a safe speed for weather, road conditions and vehicular or pedestrian traffic; and*
 - (b) *Proceeding with due care and caution.*
- (3) *This section may be cited as the Slow Down to Get Around Law.*

Signed by Governor March 16, 2017.

CHAPTER 22

(SB 4)

AN ACT relating to medical review panels.

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

➔SECTION 1. KRS CHAPTER 216C IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This chapter provides for the establishment of medical review panels to review proposed malpractice complaints against health care providers covered by this chapter.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context otherwise requires:

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Dependent claim" means any claim against an entity or person that owns, controls, or manages any part of the operations of a health care provider, and which arises out of or relates in any way, in whole or in part, to a claim of malpractice or a malpractice-related claim;*
- (3) *"Health care" means an act or treatment performed or furnished or that should have been performed or furnished by a health care provider for, to, or on behalf of a patient;*
- (4) *"Health care provider" means any health facility as defined in KRS 216B.015, or a provider, including natural persons, of health care or health services, including but not limited to those licensed, certified, registered under, or subject to KRS 194A.700 to 194A.729 or KRS Chapter 310, 311, 311A, 311B, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 333, 334A, or 335 and the current and former officers, directors, administrators, agents, or employees of any such persons or entities acting within the course and scope of their office, employment, or agency;*
- (5) *"Malpractice" means a tort based on or arising out of health care or professional services that were provided, or that should have been provided, by a health care provider to a patient;*
- (6) *"Malpractice-related claim" means a claim for a tort or a violation of a statute, administrative regulation, right, or rule based on or arising out of health care or professional services that were provided, or that should have been provided, by a health care provider to a patient;*
- (7) *"Patient" means an individual who receives or should have received health care from a health care provider under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, related to alleged malpractice on the part of a health care provider. Derivative claims include the claim of a spouse, parent, guardian, trustee, child, relative, heir, beneficiary, estate of the patient, representative of the patient's estate, attorney, or any other representative of the patient, including claims for loss of services, wrongful death, loss of consortium, expenses, and other similar claims; and*
- (8) *"Tort" means a legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *All malpractice and malpractice-related claims against a health care provider, other than claims validly agreed for submission to a binding arbitration procedure shall be reviewed by a medical review panel. Such an action may not be commenced in a court in Kentucky before:*
 - (a) *The claimant's proposed complaint has been presented to a medical review panel established under this chapter; and*
 - (b) *An opinion is given by the panel. If the panel has not given its opinion within nine (9) months after the filing of the proposed complaint, the plaintiff may commence the action in court.*
- (2) *Any action involving a dependent claim accruing after the effective date of this Act shall be immediately and automatically stayed until:*
 - (a) *The claimant's proposed complaint against the health care provider has been presented to a medical review panel established under this chapter and an opinion is given by the panel; or*
 - (b) *Nine (9) months after the filing of the proposed complaint if the panel has not given its opinion.*
- (3) *Nothing in this chapter shall apply to a cause of action filed before the effective date of this Act.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A claimant may commence an action in court for malpractice or for a malpractice-related claim against a health care provider without the presentation of the claim to a medical review panel if the claimant and all parties named as defendants in the action agree that the claim is not to be presented to a medical review panel. The agreement shall be in writing and shall be signed by each party or an authorized agent of the party.*
- (2) *The claimant shall attach a copy of the agreement to the complaint filed with the court in which the action is commenced.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *The filing of a proposed complaint tolls the applicable statute of limitations. The statute of limitations is tolled until ninety (90) days after the claimant has received the opinion of the medical review panel.*
- (2) *A proposed complaint is considered filed when:*
 - (a) *A copy of the proposed complaint and the filing fees set forth in subsection (3) of this section are delivered or mailed by registered or certified mail to the cabinet; or*
 - (b) *An electronic copy of the proposed complaint and the filing fees set forth in subsection (3) of this section are transmitted to the cabinet if the cabinet establishes an electronic filing system.*
- (3) *Each proposed complaint shall be accompanied by a filing fee, as established by the cabinet.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

Within ten (10) days after receiving a proposed complaint and the filing fee, the cabinet shall serve a copy of the proposed complaint by registered or certified mail on each health care provider that has been named as a defendant in the proposed complaint. The proposed complaint shall be served on a person authorized to receive summons under the Kentucky Rules of Civil Procedure. Service shall be deemed complete for purposes of this chapter upon receipt by the cabinet of the return mail receipt showing delivery on the defendant.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A medical review panel shall consist of one (1) attorney and three (3) health care providers eligible to serve under Section 9 of this Act.*
- (2) *The attorney member of the medical review panel shall act as chairperson of the panel and in an advisory capacity, but shall not vote.*
- (3) *The chairperson of the medical review panel shall expedite the selection of the other panel members, convene the panel, and expedite the panel's review of the proposed complaint. The chairperson may establish a reasonable schedule for submission of evidence to the medical review panel, but shall allow reasonable time for the parties to make full and adequate presentation of related facts and authorities in accordance with this chapter.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The chairperson of a medical review panel shall be selected in the following manner:

- (1) *Within ten (10) days after service of the complaint on all defendants as described in Section 6 of this Act, the cabinet shall notify the parties to select a panel chairperson by agreement. If no agreement on a panel chairperson can be reached within twenty (20) days of service upon all parties, any party may request the cabinet to select a list of potential chairpersons;*
- (2) *Upon receipt of a twenty-five dollar (\$25) medical review panel chairperson selection fee from the party making the request, the cabinet shall draw at random a list of five (5) names of attorneys who:*
 - (a) *Are licensed to practice law in the Commonwealth of Kentucky;*
 - (b) *Applied to serve as the chairperson of a panel and are on the list of attorneys maintained by the cabinet pursuant to subsection (8) of this section; and*
 - (c) *Practice in the Supreme Court district in which the case would be filed or, if five (5) attorneys cannot be drawn from that Supreme Court district, from an adjacent Supreme Court district;*
- (3) *The cabinet shall notify the parties, and the parties shall then strike names alternately, with the plaintiff striking first until one (1) name remains. If there is more than one (1) plaintiff or more than one (1) defendant, the plaintiffs shall make their strikes collectively and the defendants shall make their strikes collectively. The remaining attorney shall be the chairperson of the panel;*
- (4) *After the striking, the party making the last strike shall notify the chairperson and all other parties of the name of the chairperson;*
- (5) *If a party does not strike a name within five (5) days after receiving notice from the cabinet:*
 - (a) *The opposing party shall, in writing, request the cabinet to strike for the nonresponsive party; and*
 - (b) *The cabinet shall draw at random a name to strike and shall strike that name;*

- (6) *When one (1) name remains, the cabinet shall within five (5) days notify the chairperson and all other parties of the name of the chairperson;*
- (7) *Within fifteen (15) days after being notified of being selected as chairperson, the chairperson shall:*
 - (a) *Send a written acknowledgment of appointment to the cabinet; or*
 - (b) *Show good cause for relief from serving as provided in Section 13 of this Act; and*
- (8) *The cabinet shall maintain a list of attorneys who have applied to serve as chairperson of a medical review panel, as described in Section 7 of this Act. This list shall be used to select a chairperson if the parties do not agree on a chairperson.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

Those health care providers who are natural persons, whether in the teaching profession or otherwise, who hold a valid, active license to practice in his or her profession shall be eligible for selection as a member of the medical review panel.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *Within five (5) days after acknowledging appointment of the selection of a panel chairperson, the panel chairperson shall provide the parties with two (2) lists of panelists who are eligible for panel membership under Section 9 of this Act. Each list shall contain three (3) names of prospective panelists eligible to serve. The lists shall, to the extent reasonably possible, include only prospective panelists from the professions and within the specialty fields, if any, of one (1) or more of the defendants, and shall, to the extent reasonably possible, include only prospective panelists who are licensed in the Commonwealth of Kentucky. The parties to the proposed complaint shall be permitted to propose to the panel chairperson the health care provider professions and related specialty fields from which the lists of panelists will be drawn.*
- (2) *The plaintiff shall strike a name from each list, and the defendant shall strike a name from each list. If there is more than one (1) plaintiff or more than one (1) defendant, the plaintiffs shall make their strikes collectively and the defendants shall make their strikes collectively. The remaining names on each list shall serve as panel members. The two (2) selected panelists shall then select a third panel member who meets the criteria set forth in Section 9 of this Act and is from the profession and specialty field, if any, of one (1) or more of the defendants.*
- (3) *If a party fails to make a strike within the time provided, the chairperson shall make the strike and notify all parties. Within fifteen (15) days after their selection, the panel members shall select the third member and notify the chairperson and the parties. If the panel members fail to make a selection, the chairperson shall make the selection and notify all parties.*
- (4) *If there are multiple plaintiffs or defendants, only one (1) panel member shall be selected by the plaintiffs, collectively, and one (1) by the defendants, collectively.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *Within ten (10) days after the selection of a panel member, written challenge may be made to the chairperson. Upon challenge, the chairperson shall determine if there is sufficient cause to dismiss the panel member for conflict or potential bias. If the challenged or dismissed panel member was selected through the striking process, the chairperson shall provide a new striking panel. The party whose appointment was challenged shall strike last, and the remaining member shall serve.*
- (2) *If the challenged or dismissed panel member was selected by the other two (2) panel members or by the chairperson, the panel members or the chairperson who selected the challenged panel member shall make a new selection.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

When a medical review panel is formed, the chairperson shall, within five (5) days, notify the cabinet and the parties by registered or certified mail of the following:

- (1) *The names and addresses of the panel members; and*
- (2) *The date on which the last member was selected.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A member of a medical review panel who is selected shall serve unless:*

- (a) *The panel member is dismissed pursuant to a successful challenge as provided in Section 11 of this Act or removed pursuant to Section 15 of this Act;*
 - (b) *The parties by agreement excuse the panelist; or*
 - (c) *The panelist is excused as provided in this section for good cause shown.*
- (2) *To show good cause for relief from serving, the attorney selected as chairperson of a medical review panel shall serve an affidavit upon the cabinet. The affidavit shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The cabinet may excuse the attorney from serving. The attorney shall notify all parties, who shall then select a new chairperson using the procedure set forth in Section 8 of this Act.*
 - (3) *To show good cause for relief from serving, a panel member who is not the chairperson of a medical review panel shall serve an affidavit upon the panel chairperson. The affidavit shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The chairperson may excuse the member from serving and notify all parties. The excused panel member shall be replaced using the procedure set forth in Section 11 of this Act for dismissed panel members.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

A party, attorney, or panelist who fails to act as required by this chapter without good cause shown is subject to appropriate sanctions upon application to a Circuit Court that has jurisdiction over the subject matter.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet may remove the chairperson of the panel if the chairperson is not fulfilling the duties imposed upon the chairperson by this chapter. If the chairperson is removed, a new chairperson shall be selected in the manner set forth in Section 8 of this Act.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The chairperson may remove a member of the panel if the chairperson determines that the member is not fulfilling the duties imposed upon the panel members by this chapter. If a member is removed under this section, a new member shall be selected in the manner provided in Section 11 of this Act for dismissed panel members.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *The evidence to be considered by the medical review panel shall be submitted by the respective parties in written or electronic form.*
- (2) *The evidence may consist of nonprivileged medical records, X-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, and affidavits.*
- (3) *Depositions of parties and witnesses may be taken with the approval of the chairperson after the formation of the panel but before the evidence is submitted to the panel. The approval of the chairperson shall not be unreasonably withheld.*
- (4) *Upon request of any party, or upon request of any panel member, the chairperson shall issue administrative subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection or copying, or both.*
- (5) *The chairperson shall ensure that before the panel gives its opinion, each panel member has the opportunity to review every item of evidence submitted by the parties.*
- (6) *The plaintiff's evidence shall be submitted to the medical review panel within sixty (60) days after the chairperson has notified the parties of the formation of the medical review panel as set forth in Section 12 of this Act.*
- (7) *The defendants' evidence shall be submitted to the medical review panel within forty-five (45) days after the receipt of the plaintiff's submission of evidence.*
- (8) *If no submission is made by one (1) or more of the parties, the medical review panel shall review the evidence submitted by the other parties and shall proceed with rendering its opinion on the evidence submitted.*
- (9) *The chairperson may extend the deadlines set forth in this section in the event of extenuating circumstances, if requested by one (1) or more of the parties.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A party, a party's agent, a party's attorney, or a party's insurance carrier shall not communicate with any member of the panel, except as authorized by law, before the giving of the panel's opinion.*
- (2)
 - (a) *The panel has the right and duty to request all necessary and relevant information.*
 - (b) *The panel may consult with medical authorities.*
 - (c) *The panel may examine reports of other health care providers necessary to fully inform the panel regarding the issue to be decided.*
 - (d) *All parties shall have full access to any material submitted to the panel.*
 - (e) *The panel may conduct a hearing to question counsel or ask the parties to answer specific questions.*
- (3) *The chairperson of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *The panel has the sole duty to express the panel's opinion as to whether or not the evidence supports the conclusion that a defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint and whether any such failure was a substantial factor in providing a negative outcome for that patient.*
- (2) *After reviewing all evidence, the panel shall, within thirty (30) days of receipt of the defendants' evidence submitted under Section 17 of this Act, give as to each defendant one (1) of the following opinions, which shall be in writing and signed by the panelists:*
 - (a) *The evidence supports the conclusion that the specifically identified defendant failed to comply with the appropriate standard of care as charged in the complaint and the conduct was a substantial factor in producing a negative outcome for the patient;*
 - (b) *The evidence supports the conclusion that the specifically identified defendant failed to comply with the appropriate standard of care as charged in the complaint, but the conduct was not a substantial factor in producing a negative outcome for the patient; or*
 - (c) *The evidence does not support the conclusion that the specifically identified defendant failed to meet the applicable standard of care as charged in the complaint.*
- (3) *In order to give the opinion of the panel in accordance with subsection (2) of this section, two (2) or more of the members of the panel shall agree on the conclusion.*
- (4) *After the panel gives its opinion as to each defendant, the panel is dissolved and shall take no further action.*

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

If the panel has not given its opinion within nine (9) months after the filing of the proposed complaint, the plaintiff may commence the action in court. The panel shall submit a report to the parties, stating the reasons for the delay, and may continue its work to reach an opinion.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *Upon motion, the trial court shall admit the panel's opinion into evidence as an expert opinion, subject to cross-examination, upon a written finding that the evidence would assist the trier of fact and otherwise comply with the Kentucky Rules of Evidence.*
- (2) *The opinion is not conclusive, and either party may call any member of the medical review panel as a witness. If called as a witness, the panel member shall appear and testify, but shall be entitled to reasonable compensation by the party calling the witness.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

A panelist shall have absolute immunity for civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by this chapter.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *Each member of the medical review panel other than the chairperson is entitled to be paid as follows:*

- (a) *Up to three hundred fifty dollars (\$350) for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court; and*
- (b) *Reasonable travel expenses.*
- (2) *The chairperson of the panel is entitled to be paid as follows:*
 - (a) *At the rate of two hundred fifty dollars (\$250) per diem, not to exceed two thousand dollars (\$2,000) per case; and*
 - (b) *Reasonable travel expenses.*
- (3) *The chairperson shall keep an accurate record of the time and expenses of all the members of the panel. The record shall be submitted to the parties for payment with the panel's report.*
- (4) *Fees of the panel, including travel expenses and other expenses of the review, shall be paid by the party or parties in whose favor the opinion is written.*

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The chairperson shall submit a copy of the panel's report by registered or certified mail within five (5) days after the panel gives its opinion to:

- (1) *The cabinet; and*
- (2) *All parties and the attorneys for the parties.*

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A court having jurisdiction over the subject matter and the parties to a proposed complaint filed with the cabinet under this chapter may, upon the filing of a petition as set forth in Section 26 of this Act:*
 - (a) *Entertain motions to compel or limit discovery previously authorized by the chairperson of the medical review panel;*
 - (b) *Entertain motions to enforce or quash subpoenas issued by the chairperson of the medical review panel; and*
 - (c) *Entertain motions for sanctions pursuant to Section 14 of this Act.*
- (2) *The court has jurisdiction to entertain a motion filed under this chapter only during that time after a proposed complaint is filed with the cabinet under this chapter but before the medical review panel gives the panel's written opinion.*
- (3) *The failure of any party to move to compel or limit discovery under this chapter does not constitute the waiver of any affirmative defense or issue of law or fact.*

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *A party to a proceeding commenced under this chapter, the cabinet, or the chairperson of a medical review panel, if any, may invoke the jurisdiction of the court by paying the statutory filing fee to the clerk and filing a petition with a copy of the proposed complaint and motion with the clerk.*
- (2) *The filing of a copy of the proposed complaint and motion with the clerk confers jurisdiction upon the court over the subject matter of the proceeding for the limited purposes stated in this chapter, including the assessment of costs or the allowance of expenses, including reasonable attorney's fees, or both.*
- (3) *The moving party or the moving party's attorney shall cause as many summonses as are necessary to be issued by the clerk and served, together with a copy of the proposed complaint and a copy of the motion, and in accordance with the Kentucky Rules of Civil Procedure upon:*
 - (a) *The cabinet;*
 - (b) *Each nonmoving party to the proceedings; and*
 - (c) *The chairperson of the medical review panel, if any, unless the cabinet or the chairperson is the moving party.*

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

- (1) *Each nonmoving party to the proceeding, including the cabinet and the chairperson of the medical review panel, if any, shall have a period of twenty (20) days after service, or a period of twenty-three (23) days after*

service if service is by mail, to appear and file and serve a written response to the motion, unless the court, for cause shown, orders the period enlarged.

- (2) *The court shall order the clerk to serve a copy of the court's ruling on the motion by ordinary mail on the cabinet, each party to the proceeding, and the chairperson of the medical review panel, if any.*

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

Upon the filing of a copy of the proposed complaint and motion with the clerk of the court, all further proceedings before the medical review panel shall be stayed automatically until the court has entered a ruling on the motion.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The court may enforce its ruling on any motion filed under this chapter in accordance with the Kentucky Rules of Civil Procedure, subject to any right of appeal otherwise allowed by Kentucky law.

Signed by Governor March 16, 2017.

CHAPTER 23

(SB 42)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 431.005 is amended to read as follows:

- (1) A peace officer may make an arrest:
- (a) In obedience to a warrant; or
 - (b) Without a warrant when a felony is committed in his or her presence; or
 - (c) Without a warrant when he or she has probable cause to believe that the person being arrested has committed a felony; or
 - (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his or her presence; or
 - (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his or her presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his or her presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person being arrested has violated KRS 189A.010 or KRS 281A.210; or
 - (f) Without a warrant when a violation of KRS 508.030 has occurred in ~~the emergency room of~~ a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. ***As used in this paragraph, "hospital" includes any property owned or used by a hospital as a parking lot or parking garage.*** ~~For the purposes of this paragraph, "emergency room" means that portion of a licensed hospital which has the primary purpose of providing emergency medical care, twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.~~
- (2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member, member of an unmarried couple, or another person with whom the person was or is in a dating relationship.
- (b) As used in this subsection, "dating relationship," "family member," and "member of an unmarried couple" have the same meanings as defined in KRS 403.720 and 456.010.
- (c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS 403.720.

- (3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.
- (4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.
- (5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.
- (6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.
- (7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

➔Section 2. KRS 431.015 is amended to read as follows:

- (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
- (b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:
 - 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010, 511.050, 511.085, 514.110, or 523.110;
 - 2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or
 - 3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.
- (c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 or an order of protection as defined in KRS 456.010.
- (d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in ~~the emergency room of a~~ hospital pursuant to KRS 431.005(1)(f).
- (2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).
- (3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.
- (4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Signed by Governor March 16, 2017.

AN ACT relating to franchises.

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

➔Section 1. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) "Department" means the Department of Workplace Standards in the Labor Cabinet;
 - (c)
 1. "Wages" includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter.~~{ }~~
 2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210(5), "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210(6), "wages" shall include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer, *except that*:
 1. *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter; and*
 2. *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.*

For purposes of this paragraph, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established

fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his or her employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community board for mental health or individuals with an intellectual disability established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care;
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
- (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
- (d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
- (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
 - (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
 - (c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty

locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he or she shall not designate less than an entire county as a locality;
- (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and
- (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.
- (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

➔Section 2. KRS 338.021 is amended to read as follows:

- (1) This chapter applies to all employers, employees, and places of employment throughout the Commonwealth except the following:
 - (a) Employees of the United States government; ~~and~~
 - (b) Employers, employees and places of employment over which federal agencies other than the Occupational Safety and Health Administration of the United States Department of Labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.
- (2)
 - (a) *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.*
 - (b) *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.*
 - (c) *For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.*
- (3) Nothing in this chapter shall be construed to supersede or in any manner affect any workers' compensation law or to enlarge or diminish or affect in any manner the common law or statutory rights, duties, or liabilities of employers or employees, under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of employment.

➔Section 3. KRS 341.070 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise, "subject employer" means:

- (1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in covered employment wages of fifteen hundred dollars (\$1,500) or more.

- (2) Any employing unit which for some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks are consecutive, in either the current or the preceding calendar year, had in covered employment at least one (1) worker (irrespective of whether the same worker was in employment in each such day).
- (3) Any employing unit for which service in covered employment, as defined in paragraph (d) of subsection (1) of KRS 341.050, is performed.
- (4) Any employing unit for which service in covered employment, as defined in paragraph (e) or (h) of subsection (1) of KRS 341.050, is performed.
- (5) Any employing unit for which service in covered employment, as defined in paragraph (f) or (h) of subsection (1) of KRS 341.050, is performed.
- (6) Any employing unit for which service in covered employment, as defined in paragraph (g) or (h) of subsection (1) of KRS 341.050, is performed.
- (7) Any employing unit that succeeds to or acquires the organization, trade, or business, or substantially all of the assets of another employing unit which at the time of such succession or acquisition is a subject employer, or which succeeds to or acquires a portion of the organization, trade, or business of another employing unit, which portion, if treated as a separate employing unit, would be, at the time of the succession or acquisition, a subject employer under subsection (1), (2), or (5) of this section.
- (8) Any employing unit for which service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be a "subject employer" under this chapter.
- (9) Any employing unit which has elected to become subject to this chapter, pursuant to subsection (3) of KRS 341.250.
- (10) For purposes of subsections (1) through (6) of this section, covered employment shall include service which would constitute covered employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into (in accordance with KRS 341.145) by the secretary and an agency charged with the administration of any other state or federal unemployment compensation law.
- (11) Any employing unit which, having become a subject employer under subsections (1) through (9) of this section, has not ceased to be a subject employer under KRS 341.250.
- (12) For purposes of subsections (2), (4), and (5) of this section, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another week.
- (13) Notwithstanding the provisions of this section or any other provision of this chapter, no employing unit shall be initially determined a subject employer on the basis of covered employment performed more than five (5) calendar years prior to the year in which such determination is made, unless the secretary can show that the records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under this chapter.
- (14) *(a) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.*
(b) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.
(c) For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.

➔Section 4. KRS 342.690 is amended to read as follows:

- (1) If an employer secures payment of compensation as required by this chapter, the liability of such employer under this chapter shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to

recover damages from such employer at law or in admiralty on account of such injury or death. For purposes of this section, the term "employer" shall include a "contractor" covered by subsection (2) of KRS 342.610, whether or not the subcontractor has in fact, secured the payment of compensation. The liability of an employer to another person who may be liable for or who has paid damages on account of injury or death of an employee of such employer arising out of and in the course of employment and caused by a breach of any duty or obligation owed by such employer to such other shall be limited to the amount of compensation and other benefits for which such employer is liable under this chapter on account of such injury or death, unless such other and the employer by written contract have agreed to share liability in a different manner. The exemption from liability given an employer by this section shall also extend to such employer's carrier and to all employees, officers or directors of such employer or carrier, provided the exemption from liability given an employee, officer or director or an employer or carrier shall not apply in any case where the injury or death is proximately caused by the willful and unprovoked physical aggression of such employee, officer or director.

- (2) If an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death results from the injury, may claim compensation under this chapter and in addition may maintain an action at law or in admiralty for damages on account of such injury or death, provided that the amount of compensation shall be credited against the amount received in such action, and provided that, if the amount of compensation is larger than the amount of damages received, the amount of damages less the employee's legal fees and expenses shall be credited against the amount of compensation. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, that the employee assumed the risks of his employment, or that the injury was due to the contributory negligence of the employee.
- (3) An employer shall retain all common law defenses against any action by an employee who elects not to be covered, as provided under subsection (6) of KRS 342.650.
- (4) *(a) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.*
(b) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.
(c) For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.

➔Section 5. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

- (1) "Qualified individual with a disability" means an individual with a disability as defined in KRS 344.010 who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's disability without undue hardship on the conduct of the employers' business. Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.
- (2) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, except that, for two (2) years following July 14, 1992, an employer means a person engaged in an industry affecting commerce who has twenty-five (25) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding year, and any agent of that person. For the purposes of determining discrimination based on disability, employer shall not include:
 - (a) The United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or
 - (b) A bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Service Code of 1986.

- (3) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.
- (4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.
- (5)
 - (a) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse, or child, or an individual employed to render services as a domestic in the home of the employer.
 - (b) *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.*
 - (c) *Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.*
 - (d) *For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.*
- (6) "Reasonable accommodation" means making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- (7) "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.
- (8) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this section shall be interpreted to permit otherwise.
- (9) "Undue hardship," for purposes of disability discrimination, means an action requiring significant difficulty or expense, when considered in light of the following factors:
 - (a) The nature and cost of the accommodation needed;
 - (b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;
 - (c) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; and the number, type, and location of its facilities; and
 - (d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

Signed by Governor March 16, 2017.

(SB 79)

AN ACT relating to health care providers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 2 of this Act:

- (1) *"Direct primary care membership agreement" means a written contractual agreement between a primary care provider and an individual patient or his or her legal guardian that:*
 - (a) *Is for an agreed-upon fee over an agreed-upon period of time;*
 - (b) *Describes the primary care services to be provided in exchange for the agreed-upon fee;*
 - (c) *States that the primary care provider shall not bill a health benefit plan or the Medicaid program on a fee-for-service basis for the primary care services provided under the agreement;*
 - (d) *Specifies automatic agreement renewal periods;*
 - (e) *Specifies any additional fees that may be charged for primary care services that are not included in the agreement;*
 - (f) *States that the patient is not required to pay more than twelve (12) months of the agreed-upon fee in advance;*
 - (g) *States that the agreed-upon fee and any additional fees may be paid by a third party;*
 - (h) *Allows either party to terminate the agreement in writing, without penalty or payment of a termination fee, after notice;*
 - (i) *Provides that, upon termination of the agreement by the patient or his or her legal guardian, all unearned fees are to be returned to the patient, his or her legal guardian, or any third-party payor; and*
 - (j) *Contains a conspicuous and prominent statement that the agreement does not constitute a health benefit plan and does not meet any individual health benefit plan mandate that may be required by federal law;*
- (2) *"Health benefit plan" has the same meaning as in KRS 304.17A-005;*
- (3) *"Primary care provider" means a physician as defined by KRS 311.550 or a physician's medical practice that enters into a direct primary care membership agreement;*
- (4) *"Primary care service" means the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency and training of the primary care provider; and*
- (5) *"Third party" means a legal guardian, the individual patient's employer, a spouse's employer, a family member of the patient, or a state-sponsored direct primary care payment program. Third party does not include a network designed to merely accept payment from a patient and then direct the patient to one (1) of several independently owned clinics for the delivery of care.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *Receiving primary care services under a direct primary care membership agreement shall not require a patient or his or her legal guardian to forfeit coverage under a health benefit plan.*
- (2) *The offer or provision of primary care services under a direct primary care membership agreement shall not be deemed an offer or provision of coverage under a health benefit plan and shall not be regulated under KRS Chapter 304.*
- (3) *A primary care provider shall not be required to obtain a license to market, sell, or offer to sell a direct primary care membership agreement.*
- (4) *All services provided pursuant to this section shall be consistent with KRS Chapter 311 for physicians.*

➔Section 3. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

- (1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.
- (2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.
- (3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.
- (4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.
- (5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.
- (6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:
 - (a) A "qualified organization" means one which is:
 1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or
 2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or
 3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and
 - (b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.
- (7) A religious organization, as identified in this subsection, or its participants, that:
 - (a) Is a nonprofit religious organization;
 - (b) Is limited to participants who are members of the same denomination or religion;
 - (c) Matches its participants who have financial, physical, or medical needs with participants who choose to assist with those needs;
 - (d)
 1. Includes the following notice for delivery to all participants, printed in not less than ten (10) point, bold-faced type on or accompanying all applications, guideline materials, or any similar documents:

"NOTICE: UNDER KENTUCKY LAW, THE RELIGIOUS ORGANIZATION FACILITATING THE SHARING OF MEDICAL EXPENSES IS NOT AN INSURANCE COMPANY, AND ITS GUIDELINES, PLAN OF OPERATION, OR ANY OTHER DOCUMENT OF THE RELIGIOUS ORGANIZATION DO NOT CONSTITUTE OR CREATE AN INSURANCE POLICY. PARTICIPATION IN THE RELIGIOUS ORGANIZATION OR A SUBSCRIPTION TO ANY OF ITS DOCUMENTS SHALL NOT BE CONSIDERED INSURANCE. ANY ASSISTANCE YOU RECEIVE WITH YOUR MEDICAL BILLS WILL BE TOTALLY VOLUNTARY. NEITHER THE ORGANIZATION OR ANY PARTICIPANT SHALL BE COMPELLED BY LAW TO CONTRIBUTE TOWARD YOUR MEDICAL BILLS. WHETHER OR NOT YOU RECEIVE ANY PAYMENTS FOR MEDICAL EXPENSES, AND WHETHER OR NOT THIS ORGANIZATION CONTINUES TO OPERATE, YOU SHALL BE PERSONALLY RESPONSIBLE FOR THE PAYMENT OF YOUR MEDICAL BILLS."
 2. A participant shall acknowledge receipt of the "Notice" by signing below the "Notice" on the application;
 - (e) Suggests amounts to give that are voluntary among the participants, with no assumption of risk or promise to pay either among the participants or between the participants and the organization.
- (8) A public or private ambulance service licensed and regulated by the Cabinet for Health and Family Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.
- (9) *A direct primary care agreement established under Sections 1, 2, 5, and 6 of this Act.*

➔Section 4. KRS 304.17A-005 is amended to read as follows:

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

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "At the time of enrollment" means:
 - (a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and
 - (b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;
- (3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;
- (4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;
- (5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (7) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (8) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
 1. A group health plan;
 2. Health insurance coverage;
 3. Part A or Part B of Title XVIII of the Social Security Act;
 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 5. Chapter 55 of Title 10, United States Code, including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;
 6. A medical care program of the Indian Health Service or of a tribal organization;
 7. A state health benefits risk pool;
 8. A health plan offered under Chapter 89 of Title 5, United States Code, such as the Federal Employees Health Benefit Program;
 9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or

11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program.
- (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (14) of this section;
- (9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;
- (10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;
- (11) "Eligible individual" means an individual:
- (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
 - (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (12) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
 - (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.
- Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, and except as otherwise provided by the definition of "large group" contained in subsection (30) of this section, an employer-organized association shall not be treated as an association, small group, or large group under this subtitle, provided that an employer-organized association that is a bona fide association as defined in subsection (5) of this section shall be treated as a large group under this subtitle;
- (13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (14) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
- (a) Coverage only for accident, including accidental death and dismemberment, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;

- (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;
 - (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;
 - (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
 - (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; and
 - (q) Health flexible spending arrangements;
- (15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (16) "Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;
- (17) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;
- (18) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;
- (19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (20) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:
- (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:
 - 1. Waived coverage under KRS 304.17A-210(2); or
 - 2. Did not elect family coverage that was available through the association or group market;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

- (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
 - 1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 - 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 - 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (22) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code, or limited health service benefit plans, ***or direct primary care agreements established under Sections 1, 2, 5, and 6 of this Act;***
- (23) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, a pharmacist as defined pursuant to KRS Chapter 315, or home medical equipment and services provider as defined pursuant to KRS 309.402, and any of the following independent practicing practitioners:
 - (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Advanced practice registered nurses licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
 - (b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
 - 1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.
- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;
- (25) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (26) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. The individual market includes an association plan that is not employer related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association, that has been organized and is maintained in good faith for purposes other than obtaining insurance for its members and that has a constitution and bylaws;
- (27) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (28) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (29) "Kentucky Access" has the meaning provided in KRS 304.17B-001(17);
- (30) "Large group" means:
 - (a) An employer with fifty-one (51) or more employees;
 - (b) An affiliated group with fifty-one (51) or more eligible members; or
 - (c) An employer-organized association that is a bona fide association as defined in subsection (5) of this section;
- (31) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (32) "Market segment" means the portion of the market covering one (1) of the following:
 - (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (33) "Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;
- (34) "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;

- (35) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (36) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (37) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (38) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (39) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (40) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (41) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (42) "Small group" means:
 - (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members;
- (43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- (44) "Telehealth" has the meaning provided in KRS 311.550.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 6 of this Act:

- (1) *"Direct primary care membership agreement" means a written contractual agreement between a primary care provider and an individual patient or his or her legal guardian that:*
 - (a) *Is for an agreed-upon fee over an agreed-upon period of time;*
 - (b) *Describes the primary care services to be provided in exchange for the agreed-upon fee;*
 - (c) *States that the primary care provider shall not bill a health benefit plan or the Medicaid program on a fee-for-service basis for the primary care services provided under the agreement;*
 - (d) *Specifies automatic agreement renewal periods;*
 - (e) *Specifies any additional fees that may be charged for primary care services that are not included in the agreement;*
 - (f) *States that the patient is not required to pay more than twelve (12) months of the agreed-upon fee in advance;*
 - (g) *States that the agreed-upon fee and any additional fees may be paid by a third party;*
 - (h) *Allows either party to terminate the agreement in writing, without penalty or payment of a termination fee, after notice;*
 - (i) *Provides that, upon termination of the agreement by the patient or his or her legal guardian, all unearned fees are to be returned to the patient, his or her legal guardian, or any third-party payor; and*
 - (j) *Contains a conspicuous and prominent statement that the agreement does not constitute a health benefit plan and does not meet any individual health benefit plan mandate that may be required by federal law;*
- (2) *"Health benefit plan" has the same meaning as in KRS 304.17A-005;*

- (3) *"Primary care provider" means an advanced practice registered nurse as defined by KRS 314.011 or an advanced practice registered nurse's practice that enters into a direct primary care membership agreement;*
- (4) *"Primary care service" means the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency and training of the primary care provider; and*
- (5) *"Third party" means a legal guardian, the individual patient's employer, a spouse's employer, a family member of the patient, or a state-sponsored direct primary care payment program. Third party does not include a network designed to merely accept payment from a patient and then direct the patient to one (1) of several independently owned clinics for the delivery of care.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

- (1) *Receiving primary care services under a direct primary care membership agreement shall not require a patient or his or her legal guardian to forfeit coverage under a health benefit plan.*
- (2) *The offer or provision of primary care services under a direct primary care membership agreement shall not be deemed an offer or provision of coverage under a health benefit plan and shall not be regulated under KRS Chapter 304.*
- (3) *A primary care provider shall not be required to obtain a license to market, sell, or offer to sell a direct primary care membership agreement.*
- (4) *All services provided pursuant to this section shall be consistent with KRS Chapter 314 for advanced practice registered nurses.*

Signed by Governor March 17, 2017.

CHAPTER 26

(HCR 59)

A CONCURRENT RESOLUTION designating April 6, 2017, as World War One Centennial Day in the Commonwealth.

WHEREAS, April 6, 2017, marks the centennial of America's declaration of war against Imperial Germany and the country's entry into the First World War; and

WHEREAS, men and women from the Commonwealth have served in the Armed Forces with distinction in the Great War and those that followed, and they continue to serve in defense of our freedoms today; and

WHEREAS, Kentucky was chosen as the site of one of only 16 World War One cantonments, Camp Zachary Taylor in Louisville, where more than 150,000 men trained for service in the war; and

WHEREAS, two men with Kentucky backgrounds were awarded the Medal of Honor for valorous service in World War One: Captain Samuel Woodfall, a resident of Fort Thomas, and Sergeant Willie Sandlin of Buckhorn. When General Pershing was asked to name the most gallant among all of America's heroes from the Great War, Captain Woodfall was among his selection; and

WHEREAS, at least six men from Kentucky served in the legendary United States Army unit nicknamed the Harlem Hellfighters and were awarded the Croix de Guerre by the government of France for their valorous service in the war: Private Bert Beckham, Private Robert Wooten, Private Bradley Logan, and Private Ionia Harris, all of Shelbyville; Private Leonard Todd of Finchville; and Private John Ray Carter of Anderson County; and

WHEREAS, Kentucky is home to legendary military units at Fort Campbell and Fort Knox, as well as more than 300,000 veterans of all branches of the military; and

WHEREAS, Congress has officially created the World War One Centennial Commission to educate, commemorate, and honor this event in our history, and the Commonwealth has created the Kentucky World War One Centennial Committee to do the same; and

WHEREAS, nearly 100,000 Kentucky families were among the more than four million American families who sent their sons and daughters to serve in uniform during the Great War, with 116,516 soldiers giving their lives in combat, including 2,318 Kentuckians, and another 200,000 were wounded;

NOW, THEREFORE,

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

➔Section 1. The House of Representatives encourages all citizens to remember and commemorate America's entry into the Great War and the sacrifices that awaited its citizens one hundred years ago.

➔Section 2. The House of Representatives and Senate designate April 6, 2017, as World War One Centennial Day throughout the Commonwealth of Kentucky.

Signed by Governor March 20, 2017.

CHAPTER 27

(HB 14)

AN ACT relating to hate crimes.

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

➔Section 1. KRS 532.031 is amended to read as follows:

- (1) A person may be found by the sentencing judge to have committed an offense specified below as a result of a hate crime if the person intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals ***or because of a person's actual or perceived employment as a state, city, county, or federal peace officer, member of an organized fire department, or emergency medical services personnel***, violates a provision of any one (1) of the following:
 - (a) KRS 508.010, 508.020, 508.025, or 508.030;
 - (b) KRS 508.050 or 508.060;
 - (c) KRS 508.100 or 508.110;
 - (d) KRS 509.020;
 - (e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or 510.110;
 - (f) KRS 512.020, 512.050, or 512.060;
 - (g) KRS 513.020, 513.030, or 513.040; or
 - (h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.
- (2) At sentencing, the sentencing judge shall determine if, by a preponderance of the evidence presented at the trial, a hate crime was a primary factor in the commission of the crime by the defendant. If so, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.
- (3) The finding that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the sentencing judge as the sole factor for denial of probation, shock probation, conditional discharge, or other form of nonimposition of a sentence of incarceration.
- (4) The finding by the sentencing judge that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the Parole Board in delaying or denying parole to a defendant.
- (5) ***As used in this section:***
 - (a) ***"Emergency medical services personnel" has the same meaning as in KRS 311A.010; and***

- (b) *"Member of an organized fire department, or emergency medical services personnel" includes volunteers, if the violation occurs while the volunteer is performing duties with an organized fire department or as emergency medical services personnel.*

Signed by Governor March 20, 2017.

CHAPTER 28

(HB 35)

AN ACT relating to public benefit corporations.

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

➔Section 1. KRS 14A.3-010 is amended to read as follows:

- (1) Except as authorized by subsection (24) of this section, the real name of an entity or foreign entity shall be distinguishable from any name of record with the Secretary of State.
- (2) The real name of a corporation or nonprofit corporation~~[shall]~~:
 - (a) 1. ***Shall*** end with the word "corporation," "company," or "limited" or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." or words or abbreviations of like import in another language, provided, however, that if a nonprofit corporation's name includes the word "company" or the abbreviation "Co.," it may not be immediately preceded by the word "and" or the abbreviation "&"~~;~~~~or~~
 2. If a professional service corporation, shall end with the words "professional service corporation" or the abbreviation "P.S.C."; ***or***
 3. ***If a public benefit corporation, shall end with the words "public benefit corporation" or "benefit corporation" or the abbreviation "P.B.C." or "PBC"; and***
- (b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by its organic act and its articles of incorporation.
- (3) The real name of a limited liability company shall end with the phrase "limited liability company" or "limited company" or the abbreviation "LLC" or "LC," provided, however, if the company is a professional limited liability company the name shall end with the phrase "professional limited liability company" or "professional limited company" or the abbreviation "PLLC" or "PLC." In the name of either a limited liability company or a professional limited liability company, the word "limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."
- (4) The real name of a limited liability partnership registered pursuant to KRS 362.555 shall contain the phrase "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.
- (5) The real name of a partnership subject to KRS 362.1-101 to 362.1-975, the "Kentucky Revised Uniform Partnership Act (2006)":
 - (a) Shall not contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc."; and
 - (b) May contain the word "limited" or the abbreviation "Ltd." only if the partnership has filed a statement of qualification.
- (6) The real name of a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-931 shall end with the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.," "L.L.P.," "RLLP," or "LLP."
- (7) The real name of a limited partnership subject to KRS 362.401 to 362.525, the "Kentucky Revised Uniform Limited Partnership Act," shall:
 - (a) Contain the word "Limited" or the abbreviation "Ltd." unless the limited partnership was formed under any statute of the Commonwealth prior to the adoption of the Kentucky Revised Uniform Limited Partnership Act; and
 - (b) Not contain the name of a limited partner unless:

1. That name is also the name of a general partner; or
 2. The business of the limited partnership had been carried on under that name before the admission of that limited partner.
- (8) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-977, the "Kentucky Uniform Limited Partnership Act (2006)," that is not a limited liability limited partnership may contain the name of any partner and shall:
- (a) End with the phrase "limited partnership" or "limited" or the abbreviation "L.P.," "LP," or "Ltd."; and
 - (b) Not contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP."
- (9) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-977, the "Kentucky Uniform Limited Partnership Act (2006)," that is a limited liability limited partnership may contain the name of any partner and shall:
- (a) End with the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP"; and
 - (b) Not contain only the phrase "limited partnership" or the abbreviation "L.P." or "LP."
- (10) Subject to KRS 362.2-974, subsections (8) and (9) of this section shall not apply to a limited partnership formed under any statute of this Commonwealth prior to July 15, 1988.
- (11) The real name of a rural telephone cooperative corporation:
- (a) Shall contain the word "Telephone," "Telecommunications," "Company," or "Corporation" and the abbreviation "Inc.," unless in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger, or conversion which relate to that cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded there from by reason of the inclusion of such words or either thereof in its name; and
 - (b) May include the word "Cooperative."
- (12) The phrase "Rural Electric Cooperative" may not be used in the name of any entity or foreign entity except for one formed under KRS Chapter 279.
- (13) Except as otherwise provided in this section, the word "cooperative" may not be used in the name of any entity doing business in this Commonwealth.
- (14) The name of a limited cooperative association shall end with the words "limited cooperative association" or "limited cooperative" or the abbreviation "L.C.A." or "LCA." "Limited" may be abbreviated as "Ltd.," "Cooperative" may be abbreviated as "Co-op" or "Coop," and "Association" may be abbreviated as "Assoc." or "Assn."
- (15) There are no required identifiers for a business trust or a statutory trust, but the name of a business or statutory trust may include "Limited" or "Ltd." and may not include any of "incorporated," "corporation," "Inc.," "Corp.," "partnership," or "cooperative."
- (16) The real name of an unincorporated nonprofit association that has filed a certificate of association with the Secretary of State shall end with "Limited" or "Ltd.," and the real name of an unincorporated nonprofit association that has not filed a certificate of association with the Secretary of State shall not include "Limited" or "Ltd." No unincorporated nonprofit association shall include in its name any of "incorporated," "corporation," "Inc.," "Corp.," "company," "partnership," "*benefit*," or "cooperative."
- (17) This chapter does not control the use of assumed names.
- (18) The filing of articles of incorporation, articles of organization, articles of association, a statement of qualification, a certificate of limited partnership, a declaration or certificate of trust, a certificate of association, an application to transact authority in the Commonwealth, a statement of foreign qualification, a name registration, or name reservation under a particular name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (19) The provisions of subsection (2)(a) of this section shall not affect the right of any nonprofit corporation existing on June 13, 1968, to continue the use of its name as then in effect.

- (20) The assumption of a nonprofit corporate name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this Commonwealth having equity jurisdiction may, upon the application of the Commonwealth or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.
- (21) This section shall not apply to any domestic or foreign telephone cooperative which became subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470 or which does business in this Commonwealth pursuant to KRS 279.570 and which elects to retain a name which does not comply with this section.
- (22) Nothing in this section shall limit the ability of a professional regulatory board to promulgate rules governing entities and foreign entities under its jurisdiction.
- (23) The real name of a foreign entity will be determined according to KRS 365.015. For entities not covered by that statute, the real name of the foreign entity will be the real name of the entity as so recognized in the jurisdiction of its origination.
- (24) The real name of a partnership, other than that of a limited liability partnership as set forth on a statement of qualification or a registration as a limited liability partnership filed pursuant to KRS 362.555 or that of a foreign limited liability partnership as set forth on a statement of foreign qualification, need not be distinguishable from any name of record with the Secretary of State.

➔Section 2. KRS 271B.1-400 is amended to read as follows:

As used in this chapter:

- (1) "Appropriate court" means the Circuit Court for the county within the Commonwealth in which the corporation maintains its principal office or, if none, the county in which the registered office is located;
- (2) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger;
- (3) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue;
- (4) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous;
- (5) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter, and includes a professional service corporation ***and a public benefit corporation***;
- (6) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (7) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurring of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise;
- (8) "Effective date of notice" is defined in KRS 271B.1-410;
- (9) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (10) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee;
- (11) "Entity" includes a domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government;
- (12) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state;
- (13) "Governmental subdivision" includes authority, county, district, and municipality;
- (14) "Includes" denotes a partial definition;

- (15) "Individual" means a natural person and includes the estate of an incompetent or deceased individual;
- (16) "Means" denotes an exhaustive definition;
- (17) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;
- (18) "Notice" is defined in KRS 271B.1-410;
- (19) "Person" includes individual and entity;
- (20) "Principal office" means the office in or out of this state, so designated in writing to the Secretary of State where the principal executive offices of a domestic or foreign corporation are located;
- (21) "Proceeding" includes civil suit and criminal, administrative, and investigatory action;
- (22) *"Public benefit" means a positive effect or reduction of negative effects on one (1) or more categories of persons, entities, communities, or interests other than stockholders in their capacities as stockholders;*
- (23) *"Public benefit corporation" means a for-profit corporation that is intended to produce a public benefit and to operate in a responsible manner, balancing the stockholders' pecuniary interests, the best interests of those materially affected by the corporation's conduct, and the public benefit identified in its articles of incorporation;*
- (24) *"Public benefit provisions" means the provisions of articles of incorporation authorized by subsection (4) of Section 4 of this Act;*
- ~~(25)(22)~~ "Real name" shall have the meaning set forth in KRS 365.015;
- ~~(26)(23)~~ "Record date" means the date established under Subtitle 6 or 7 of this chapter on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed;
- ~~(27)(24)~~ "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under KRS 271B.8-400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation;
- ~~(28)(25)~~ "Share" means the unit into which the proprietary interests in a corporation are divided;
- ~~(29)(26)~~ "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation;
- ~~(30)(27)~~ "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature;
- ~~(31)(28)~~ "State," when referring to a part of the United States, includes a state and Commonwealth and their agencies and governmental subdivisions, and a territory and insular possession and their agencies and governmental subdivisions of the United States;
- ~~(32)(29)~~ "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation;
- ~~(33)(30)~~ "United States" includes district, authority, bureau, commission, department, and any other agency of the United States; and
- ~~(34)(31)~~ "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

➔SECTION 3. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provisions of this chapter, a corporation that is not a public benefit corporation shall not, without the approval of ninety percent (90%) of the outstanding shares of each class of the stock of the corporation of which there are outstanding shares, whether voting or nonvoting:*
 - (a) *Amend its articles of incorporation to elect to be a public benefit corporation; or*

- (b) *Merge with or into another entity if, as a result of the merger, the shares in the corporation would become, or be converted into or exchanged for the right to receive, shares or other equity interests in a domestic or foreign public benefit corporation or similar entity. The restrictions of this section shall not apply prior to the time that the corporation has received payment for any of its capital stock.*
- (2) *Any stockholder of a corporation that is not a public benefit corporation who:*
 - (a) *Holds shares of stock of the corporation immediately prior to the effective time of:*
 - 1. *An amendment to the corporation's articles of incorporation to become a public benefit corporation; or*
 - 2. *A merger that would result in the conversion of the corporation's stock into, or exchange of the corporation's stock for the right to receive, shares or other equity interests in a domestic or foreign public benefit corporation or similar entity; and*
 - (b) *Has not voted in favor of the amendment, merger, or consolidation or consented thereto in writing; shall be entitled to exercise dissenters rights under Subtitle 13 of this chapter.*
- (3) *Notwithstanding any other provisions of this chapter, a corporation that is a public benefit corporation shall not, without the approval of two-thirds (2/3) of the outstanding shares of each class of the stock of the corporation of which there are outstanding shares, whether voting or nonvoting,*
 - (a) *Amend its articles of incorporation to delete the election to be a public benefit corporation; or*
 - (b) *Merge with or into another entity if, as a result of the merger, the shares in the corporation would become, or be converted into or exchanged for the right to receive, shares or other equity interests in a domestic or foreign corporation that is not a public benefit corporation or similar entity and the articles of incorporation of which does not contain the identical public benefit or public benefits as the public benefit corporation identified in its articles of incorporation.*

➔Section 4. KRS 271B.2-020 is amended to read as follows:

- (1) The articles of incorporation shall set forth:
 - (a) A corporate name for the corporation that satisfies the requirements of KRS 14A.3-010;
 - (b) The number of shares the corporation is authorized to issue;
 - (c) The corporation's initial registered office and initial registered agent that satisfy the requirements of KRS 14A.4-010;
 - (d) The mailing address of the corporation's principal office; and
 - (e) The name and mailing address of each incorporator.
- (2) The articles of incorporation may set forth:
 - (a) The names and mailing addresses of the individuals who are to serve as the initial directors;
 - (b) Provisions not inconsistent with law regarding:
 - 1. The purpose or purposes for which the corporation is organized;
 - 2. Managing the business and regulating the affairs of the corporation;
 - 3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;
 - 4. A par value for authorized shares or classes of shares; and
 - 5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;
 - (c) Any provision that under this chapter is required or permitted to be set forth in the bylaws; and
 - (d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;
2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;
3. For any vote for or assent to an unlawful distribution to shareholders as prohibited under KRS 271B.8-330; or
4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to KRS 271B.8-300.

- (3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

- (4) ***In addition to the information otherwise required, the articles of incorporation for a public benefit corporation shall state:***

(a) That the corporation is a public benefit corporation; and

(b) The purpose or purposes of the corporation, which shall include one (1) or more public benefits.

➔Section 5. KRS 271B.6-260 is amended to read as follows:

- (1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.
- (2) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by subsections (2) and (3) of KRS 271B.6-250 and, if applicable, KRS 271B.6-270.
- (3) ***Any stock certificate issued by a public benefit corporation shall note conspicuously that the corporation is a public benefit corporation.***

➔Section 6. KRS 271B.7-400 is amended to read as follows:

- (1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.
- (2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.
- (3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.
- (4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.
- (5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.
- (6) In any derivative proceedings in the right of a foreign corporation, the matters covered by this section shall be governed by the laws of the jurisdiction of incorporation.

- (7) The articles of incorporation of the corporation may provide that proper venue for a derivative action or an action to compel the production of books and records is in or only is in the appropriate court.
- (8) ***Shareholders of a public benefit corporation owning individually or collectively, as of the date of instituting a derivative proceeding, at least two percent (2%) of the corporation's outstanding shares or, in the case of a corporation with shares listed on a national securities exchange, the lesser of that percentage or shares of at least two million dollars (\$2,000,000) in market value, may maintain a derivative proceeding to enforce the requirements set forth in subsection (8) of Section 7 of this Act.***

➔Section 7. KRS 271B.8-300 is amended to read as follows:

- (1) A director shall discharge his duties as a director, including his duties as a member of a committee:
- (a) In good faith;
 - (b) On an informed basis; and
 - (c) In a manner he honestly believes to be in the best interests of the corporation.
- (2) A director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.
- (3) In discharging his duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
- (a) One (1) or more officers or employees of the corporation whom the director honestly believes to be reliable and competent in the matters presented;
 - (b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or
 - (c) A committee of the board of directors of which he is not a member, if the director honestly believes the committee merits confidence.
- (4) A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.
- (5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with subsection (2)(d) of KRS 271B.2-020, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:
- (a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and
 - (b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation and its shareholders.
- (6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.
- (7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to July 15, 1988.
- (8) ***In a public benefit corporation:***
- (a) ***The board of directors shall manage or direct the business and affairs of the public benefit corporation in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by the corporation's conduct, and the specific public benefit or public benefits identified in its articles of incorporation;***
 - (b) ***A director of the public benefit corporation shall not, by virtue of the public benefit provisions set forth in the corporation's articles of incorporation, have any duty to any person on account of any interest of the person in the public benefit or public benefits identified in the articles of incorporation or on account of any interest materially affected by the corporation's conduct;***

- (c) *With respect to a decision implicating the balance requirement in paragraph (a) of this subsection, a director shall act in conformity with subsection (1) of this section; and*
- (d) *The articles of incorporation of a public benefit corporation may include a provision that any disinterested failure to satisfy this subsection shall not constitute an act or omission not in good faith or a breach of the duty of loyalty.*

➔Section 8. KRS 271B.13-020 is amended to read as follows:

- (1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:
 - (a) Consummation of a plan of merger to which the corporation is a party:
 - 1. If shareholder approval is required for the merger by KRS 271B.11-030 or the articles of incorporation and the shareholder is entitled to vote on the merger; or
 - 2. If the corporation is a subsidiary that is merged with its parent under KRS 271B.11-040;
 - (b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;
 - (c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;
 - (d) Consummation of a plan of conversion of the corporation into a limited liability company or statutory trust;
 - (e) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:
 - 1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;
 - 2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase of the shares;
 - 3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; ~~for~~
 - 4. Reduces the number of shares owned by the shareholder to a fraction of a share, if the fractional share so created is to be acquired for cash under KRS 271B.6-040; *or*
 - 5. *In a public benefit corporation, changes the public benefit provisions;*
 - (f) Any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2);
 - (g) *Any election by a corporation to become a public benefit corporation or pursuant to the merger of a corporation with and into a public benefit corporation; or*
 - ~~(h)(g)~~ Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.
- (2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement except by an application for injunctive relief prior to the consummation of the corporate action.

➔Section 9. KRS 271B.16-210 is amended to read as follows:

- (1) If a corporation indemnifies or advances expenses to a director under KRS 271B.8-510 to 271B.8-540 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.
- (2) *A public benefit corporation shall no less than annually provide its stockholders with a statement as to the corporation's promotion of the public benefit or public benefits identified in the articles of incorporation*

and of the best interests of those materially affected by the corporation's conduct. The statement shall include:

- (a) *The objectives that the board of directors has established to promote the public benefit or public benefits and interests;*
 - (b) *The standards that the board of directors has adopted to measure the corporation's progress in promoting the public benefit or public benefits and interests;*
 - (c) *Objective factual information based on those standards regarding the corporation's success in meeting the objectives for promoting the public benefit or public benefits and interests; and*
 - (d) *An assessment of the corporation's success in meeting the objectives and promoting the public benefit or public benefits and interests.*
- (3) *The articles of incorporation or bylaws of a public benefit corporation may require that the corporation:*
- (a) *Make the statement described in subsection (2) of this section available to the public; or*
 - (b) *Use a third-party standard in connection with, or attain a periodic third-party certification addressing, the corporation's promotion of the public benefit or public benefits identified in the articles of incorporation or the best interests of those materially affected by the corporation's conduct.*

Signed by Governor March 20, 2017.

CHAPTER 29

(HB 93)

AN ACT relating to assaults on animals utilized for the principal purpose of law enforcement.

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

➔Section 1. KRS 525.200 is amended to read as follows:

- (1) A person is guilty of assault on a service animal in the first degree when, *without legal justification or lawful authority:*
 - (a) *He or she intentionally kills or causes serious physical injury to a service animal;*
 - (b) *He or she intentionally causes physical injury to a service animal by means of a deadly weapon or dangerous instrument; or*
 - (c) *He or she wantonly causes serious physical injury to a service animal by means of a deadly weapon or dangerous instrument*~~[he intentionally and without legal justification or lawful authority kills or causes physical injury to a service animal to the extent that a service animal becomes physically incapable of ever returning to service].~~
- (2) *For the purposes of this section, "service animal" has the same meaning as defined in KRS 525.010, except that "service animal" does not include assistance dogs as defined in KRS 525.010(6)(h).*
- (3) Assault on a service animal in the first degree is a Class D felony.

Signed by Governor March 20, 2017.

CHAPTER 30

(HB 112)

AN ACT relating to dogs.

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

➔Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.500, unless the context requires otherwise:

- (1) "Department" means the Department of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Board" means the Animal Control Advisory Board created by KRS 258.117;
- (4) "Dog" means any domestic canine, six (6) months of age or older;
- (5) "Owner," when applied to the proprietorship of a dog, includes:
 - (a) Every person having a right of property in the dog; and
 - (b) Every person who:
 1. Keeps or harbors the dog;~~[-or-]~~
 2. Has *the dog*~~[it]~~ in his care;~~[-or-]~~
 3. Permits *the dog*~~[it]~~ to remain on or about premises owned *and*~~for~~ occupied by him; *or*
 4. *Permits the dog to remain on or about premises leased and occupied by him;*
- (6) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;
- (7) "Vicious dog" means any individual dog declared by a court to be a vicious dog;
- (8) "Animal control officer" means an individual who is employed or appointed by, or has contracted with:
 - (a) A city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances; or
 - (b) An entity that has contracted with a city, county, urban-county, charter county, or consolidated local government to enforce the provisions of this chapter, the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, and local animal control ordinances;
- (9) "Designated license facility" means any person, facility, or business designated by resolution of the governing body of the county to collect license fees under KRS 258.135;
- (10) "Cat" means any domestic feline three (3) months of age or older;
- (11) "Ferret" means any domestic musteline three (3) months of age or older;
- (12) "Euthanasia" means the act of putting an animal to death in a humane manner by methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by KRS 258.505;
- (13) "Animal shelter" means any facility used to house or contain animals, operated or maintained by a governmental body, incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization;
- (14) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal;
- (15) "Livestock" means poultry; ratites; and cervine, bovine, ovine, porcine, caprine, or equine animals that are privately owned and raised in a confined area for breeding stock, food, fiber, or other products; and
- (16) "Poultry" means chickens, ducks, turkeys, or other domestic fowl.

Signed by Governor March 20, 2017.

CHAPTER 31**(HB 163)**

AN ACT relating to motor vehicle titles.

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

➔Section 1. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. Notation shall be made by the entry of information required by subsection ~~(7)(6)~~ of this section into the Automated Vehicle Information System, and shall be deemed to have occurred upon the entry. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of ten (10) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for five (5) additional years, commencing on the day the notation would have expired in the absence of the filing. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial notation.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:
 - (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
 - (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS 362.2-102(14) shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or 362.2-202. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
 - (c) A limited partnership not organized under the laws of this state and authorized to do business in this state shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
 - (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
 - (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

- (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
- (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new **ownership document** ~~{title}~~ to a vehicle, clear of all prior liens, to a person after he *or she* provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. ***The ownership document presented as a result of this affidavit shall be in accordance with subsection (5) of this section.*** In the affidavit, the **affiant** ~~{person}~~ shall attest that:
 - (a) ***The affiant or the agent of the affiant*** ~~{He}~~ possesses the vehicle;
 - (b) ~~{A debt on the vehicle was owed him for more than thirty (30) days}~~ Before he *or she* provided the notices required by paragraphs (c) and (d) of this subsection:~~{;}~~
 - 1. ***A debt on the vehicle has been owed him or her for more than thirty (30) days;***
 - 2. ***Within thirty (30) days of payment of damages by an insurance company and receipt by the current owner of the motor vehicle or lienholder of damages pursuant to a claim settlement which required transfer of the vehicle to the insurance company, the insurance company has been unable to obtain:***
 - a. ***A properly endorsed certificate of title on the vehicle from the current owner; and***
 - b. ***If applicable, any lien satisfactions; or***
 - 3. a. ***The vehicle was voluntarily towed or transported pursuant to a request of the current owner or an insurance company that a motor vehicle dealer, licensed as a used motor vehicle dealer and motor vehicle auction dealer, take possession of and store the motor vehicle in the regular course of business; and***
 - b. ***Within forty-five (45) days of taking possession of the motor vehicle, the motor vehicle dealer has not been paid storage fees by the current owner or lienholder and has not been provided both a properly endorsed certificate of title and if applicable, any lien satisfactions;***
 - (c) More than ***thirty (30)*** ~~{fourteen (14)}~~ days before presenting the affidavit to the county clerk, the **affiant** ~~{person}~~ attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, ***or by a nationally recognized courier service,*** of

his *or her* name, address, and telephone number as well as his *or her* intention to obtain a new title *or salvage title, as applicable*, clear of all prior liens, unless the owner or a lienholder *objects*~~objected~~ in writing;

- (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the *affiant* ~~person~~ had published a legal notice stating his *or her* intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:
 - 1. The *affiant's* ~~person's~~ name, address, and telephone number;
 - 2. The owner's name;
 - 3. The names of all known lienholders, including those noted on the title;
 - 4. The vehicle's make, model, and year; and
 - 5. The *affiant's* ~~person's~~ intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
 - (e) Neither the owner nor a lienholder has objected in writing to the *affiant's* ~~person's~~ right to obtain title to the vehicle.
- (5) (a) *If subsection (4)(b)1. of this section applies, the new ownership document shall be a title;*
- (b) *If subsection (4)(b)2. or 3. of this section applies, the new ownership document shall be a salvage title if the vehicle meets the requirements for a salvage title as stated in KRS 186A.520(1)(a); and*
- (c) *If subsection (4)(b)2. or 3. of this section applies and the vehicle does not meet the requirements for a salvage title as stated in KRS 186A.520(1)(a), the new ownership document shall be a title.*
- (6) No more than two (2) active security interests may be noted upon a certificate of title.
- ~~(7)(6)~~ In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195~~, or an equivalent out of state issued instrument,~~ to be provided to the county clerk by the secured party.
- ~~(8)(7)~~ For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
- ~~(9)(8)~~ A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

➔Section 2. KRS 186A.195 is amended to read as follows:

- (1) As used in this chapter, a title lien statement is a document to be submitted by the secured party to the county clerk. Upon submission of the title lien statement, the county clerk shall use the information contained therein to note the security interest on the certificate of title, in accordance with KRS 186A.190(7)~~(6)~~. The county clerk may make title lien statements available to the general public. However, public availability of such statements is not necessary or effective to perfect a security interest in property required to be registered or titled in accordance with this chapter.
- (2) If a title lien statement and the required fees accompany the application for first title of any property in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(7)~~(6)~~ into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190(7)~~(6)~~. The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.
- (3) If a title lien statement and the required fees are not received at the time of application for first title of any property in the name of the owner due to owner's residency in another county, or if the form prescribed by KRS 186A.060 indicates a pending lien but the title lien statement does not accompany the application for title, the county clerk shall enter into the Automated Vehicle Information System (AVIS) the name and address of the lienholder and the county where the lien is to be noted or that a lien is pending. The clerk shall indicate a title is not to be issued until the lien has been noted and fees, according to KRS 186A.190, paid in

the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the title lien statement and fees contained in KRS 186A.190, enter into the Automated Vehicle Information System (AVIS) the date of lien notation and the notation number, thus enabling the system to produce the title in Frankfort.

- (4) Should a certificate of title be issued after the thirty (30) day period has expired without the notation of a security interest thereon, or should there be no provision made for a lien to be noted in the county of residence of the debtor within thirty (30) days and the title issued within that time, the secured party shall request from the debtor, and the debtor shall submit to the secured party, the certificate of title. The secured party shall submit the certificate of title along with the title lien statement to the county clerk of the county of the debtor's residence. The county clerk shall then enter the information required by KRS 186A.190(7)(~~6~~) into the Automated Vehicle Information System (AVIS) and note on the certificate of title in the appropriate section the information described in that section. Following the notation of the appropriate information on the certificate of title, the county clerk shall return the title to the debtor.
- (5) The security interest noted on the certificate of title shall be deemed perfected at the time the security interest attaches (KRS 355.9-203) if the secured party tenders the required fees and submits a properly completed title lien statement and application for first title or, in the case of property previously titled in the name of its debtor, the certificate of title to the appropriate county clerk within thirty (30) days of attachment. Otherwise, the security interest shall be deemed perfected at the time that such fees are tendered and such documents are submitted to the appropriate county clerk.

➔Section 3. KRS 186A.200 is amended to read as follows:

- (1) With respect to a vehicle previously titled in the name of its debtor, the secured party shall, within thirty (30) days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one (1) prior lien indicated thereon, and present to the county clerk the certificate of title, which the secured party shall have the right to obtain from the debtor, together with the title lien statement and the required fees in KRS 186A.190 to the county clerk.
- (2) For failure to present both the title and title lien statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars (\$2) to the county clerk as a prerequisite for noting the security interest on the title.
- (3) The county clerk shall enter the information required by KRS 186A.190(7)(~~6~~) into the automated system.
- (4) The county clerk shall record upon the title in the appropriate section the information designated by KRS 186A.190(7)(~~6~~).

Signed by Governor March 20, 2017.

CHAPTER 32

(HB 173)

AN ACT relating to the Kentucky Retirement Systems.

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

➔Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation":
 - (a) Means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);~~[-]~~
 - (b) *Includes:*~~[-A]~~
 1. Lump-sum ~~bonuses~~~~[bonus]~~, severance pay, or employer-provided ~~payments~~~~[payment]~~ for purchase of service credit, ~~which shall be included as creditable compensation but~~ shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);~~[-]~~
 2. *Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;*
 3. *Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and*
 4. *Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and*
 - (c) *Excludes:*
 1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board; ~~and shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4).]~~
 2. For employees who begin participating on or after September 1, 2008, ~~lump-sum~~~~[creditable compensation shall not include]~~ payments for compensatory time;
- (9) "Final compensation" means:
 - (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the

- number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
- (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
- (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
- (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;

- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583; and
- (40) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.

➔Section 2. KRS 16.520 is amended to read as follows:

- (1) Membership in the system shall consist of all regular full-time officers of the Department of Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers~~—except those who do not choose to participate pursuant to KRS 61.545(3)~~.
- (2) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

➔Section 3. KRS 16.582 is amended to read as follows:

- (1)
 - (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
 - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
 - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
 - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
 - (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
 - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
 - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
 - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
 - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
- (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
 - (b) The incapacity is deemed to be permanent; and
 - (c) The incapacity does not result directly or indirectly from:
 - 1. Injury intentionally self-inflicted while sane or insane; *or*
 - 2. ~~Injury or disease resulting from military service; or~~
 - 3. ~~Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:~~
 - a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
 - b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.
- (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.
2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
- 1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
 - 2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
 - 3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is

deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
 5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years.
 - (b) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
 - (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 16.583.
- (6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:
 - (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
 - (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
 - (7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.
 - (8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.
 - (9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

➔Section 4. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
 - (a) Means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);~~;~~
 - (b) *Includes:*~~[A]~~
 - I. Lump-sum ~~bonuses~~~~[bonus]~~, severance pay, or employer-provided ~~payments~~~~[payment]~~ for purchase of service credit, ~~which shall be included as creditable compensation but~~ shall be

averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);~~[-]~~

2. ~~[-]~~Cases where compensation includes maintenance and other perquisites, *but* the board shall fix the value of that part of the compensation not paid in money;~~[-]~~
3. *Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;*
4. *Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and*
5. *Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and*

(c) *Excludes:*

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;~~[-] shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4).]~~
2. For employees who begin participating on or after September 1, 2008, *lump-sum*~~[-] creditable compensation shall not include~~ payments for compensatory time; *and*~~[-]~~
3. For employees who begin participating on or after August 1, 2016, ~~[-] creditable compensation shall exclude~~ nominal fees paid for services as a volunteer;

(14) "Final compensation" of a member means:

- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional

and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
 - (16) "Retirement allowance" means the retirement payments to which a member is entitled;
 - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
 - (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
 - (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
 - (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
 - (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months **and are nonrenewable**;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

- (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
 - (a) The date upon which the member began participating in the system as provided in KRS 61.543; or

- (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date; and
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection.

➔Section 5. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating department after the date such department first participates in the system~~], except a person who did not elect membership pursuant to KRS 61.545(3)]~~;
- (2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;
- (b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;
- (3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

- (4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;
- (5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;
- (6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);
- (7) Membership in the system shall not include persons who are not eligible to participate in the system as provided by KRS 61.522 or those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and
- (8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

➔Section 6. KRS 61.526 is amended to read as follows:

- (1) Each employee on becoming a member of the Kentucky Employees Retirement System ~~may~~~~shall have on~~ file in the retirement office, in the form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the system may require.
- (2) If the records of the Personnel Cabinet or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any unsubstantiated service.
- (3) At the request of the member, or the beneficiary if the member is deceased, the executive director shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.
- (4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.
- (5) ***The system may allow a member to retire or obtain a refund without the member submitting a statement of facts pertaining to the member as described by this section.***

➔Section 7. KRS 61.542 is amended to read as follows:

- (1) Prior to the first day of the month in which the member receives his or her first retirement allowance and prior to the member filing a notification of retirement or a request for refund:
 - (a) Each member may designate on the form prescribed by the board a principal beneficiary and contingent beneficiary for his or her account. The principal beneficiary or contingent beneficiary designated by the member shall be:
 1. One (1) or more persons; or
 2. The member's estate; or
 3. A trust;
 - (b) If multiple persons are designated as provided by paragraph (a)1. of this subsection, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.
 2. If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.
 3. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member;~~[-and]~~
- (c) The principal and contingent beneficiary designation established by the member pursuant to paragraph (a) of this subsection shall remain in full force and effect until changed by the member, except:
1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;
 2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary; **and**
 3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust, shall supersede the designation of all previous beneficiaries, unless the notification of retirement is withdrawn, invalid, or voided. If the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member; and
- ~~[4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.]~~
- (d) ***Except as provided by paragraph (c)3. of this subsection, if the member fails to designate a beneficiary for his or her account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.***
- (2) If the member dies prior to the first day of the month in which the member would have received his or her first retirement allowance and prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:
- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (b) If the principal beneficiary is one (1) person and is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries; and
 - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.
- (3) Prior to the first day of the month in which the member would have received his or her first retirement allowance, a monthly benefit payable for life shall not be offered if the beneficiary designated under subsection (1) of this section is more than one (1) person, the member's estate, or a trust.
- (4) When a notification of retirement has been filed at the retirement office:
- (a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries;
 - (b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust; and

- (c) If the death of the beneficiary named on the notification of retirement precedes the first day of the month in which the member receives his or her first retirement allowance, the member may designate another beneficiary on the member's notification of retirement.
- (5) ***On or*** after the first day of the month in which the member receives his or her first retirement allowance~~and subsequent thereto~~, ~~the~~**[a]** member shall not have the right to change his beneficiary, except that:
 - (a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member;
 - (b) The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death; and
 - (c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).
- (6) ***Following cessation of membership as provided by KRS 61.535, no beneficiary designation in one (1) account shall be effective for any new retirement account established pursuant to KRS 61.637 or 61.680. If the member fails to designate a beneficiary for his or her new retirement account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.***

➔Section 8. KRS 61.545 is amended to read as follows:

- (1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.
- (2)
 - (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, a participating community action agency, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment ***in accordance with the payment options and restrictions established by subsection (14) of Section 9 of this Act.*** Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment ***in accordance with the payment options and restrictions established by subsection (14) of Section 9 of this Act.***
 - (b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.
 - (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
 - (d) This subsection shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.
- (3)
 - (a) ~~[An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one~~

~~(1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.~~

~~(b)~~ If ~~an~~~~the~~ employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

~~(b)(c)~~ If ~~an~~~~the~~ employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

➔Section 9. KRS 61.552 is amended to read as follows:

- (1) (a) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated account balance under the provisions of KRS 16.645(21), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.~~[The payment, including interest as determined by the board, shall be deposited to the member's account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.]~~
- (b) *Service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least six (6) months of service credit in a state-administered retirement system, excluding the service purchased under this subsection. If the member does not accrue at least six (6) months of service credit in a state-administered retirement system, excluding service purchased under this subsection, then the payment plus interest as provided in KRS 61.575 shall be refunded upon retirement, death, or written request following termination of employment. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582, 61.600, or 61.621.*
- (c) Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the system.
- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may **purchase service**~~[obtain]~~ credit in the County Employees Retirement System for ~~[prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for]~~ the service he would have received had he elected membership.~~[The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.]~~
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may **purchase service**~~[obtain]~~ credit in the Kentucky Employees Retirement System for ~~[prior service and for current service by paying to the system a delayed contribution payment for]~~ the service he would have received had he elected membership.~~[The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.]~~
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may **purchase service**~~[obtain]~~ credit in the Kentucky Employees Retirement System for ~~[current]~~ service between July 1, 1956, and the effective date of participation of his department~~[by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed~~

~~contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.~~

- (5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may ***purchase service***~~[obtain]~~ credit in the County Employees Retirement System for ~~current~~ service between July 1, 1958, and the effective date of participation of his county~~[by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer].~~
- (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may ***purchase service***~~[obtain]~~ credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. ~~[The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary.]~~The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.~~[Payment may be by lump sum or the employee may pay by increments.]~~
- (6) ~~[After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.~~
- ~~(7)~~ ~~[The ***member***~~[members]~~ shall not receive ~~[benefit of]~~ service ***credit*** for the same period of time in ***which the member has service credit in one (1) of the systems administered by Kentucky Retirement Systems or another public defined benefit retirement fund.***~~
- ~~(7)~~~~(8)~~ Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a ***nonteaching*** position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit retirement program at the university, may ***purchase service***~~[obtain]~~ credit ***in any of the systems administered by Kentucky Retirement Systems in which the employee is a member***~~[in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment]~~ for the service he would have received had his period of university employment been covered by the County Employees ***Retirement System***, Kentucky Employees Retirement System, or State Police Retirement System.~~[The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.]~~
- ~~(8)~~~~(9)~~ (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);
- (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);
- (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the

board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

- (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;
- (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- ~~(9)(10)~~ Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 prior to June 19, 1976, shall be credited to the individual member's account in the appropriate retirement system and considered as accumulated contributions of the member.
- ~~(10)(11)~~ Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960.~~{ Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4). }~~
- ~~(11)(12)~~ (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, ~~for temporary employment,~~ **probationary**, or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred ~~(100)~~ **or more** hours of work.~~{ The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4). }~~
- (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit **in the County Employees Retirement System** for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis~~{ by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. }~~. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed **to purchase service** credit only for those months he **received**~~{ receives }~~ creditable compensation for eighty (80) **or more** hours of work.~~{ The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4). }~~
- ~~(13)~~ A retired member, who is contributing to one (1) of the state administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:
 - ~~(a)~~ Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
 - ~~(b)~~ Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

- (12)(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may ***purchase service***~~[obtain]~~ credit for ~~[prior or current service for]~~ any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System~~], by paying to the respective retirement system a delayed contribution payment~~. The employee may also ***purchase service***~~[obtain]~~ credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor~~]. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account~~.
- (13)(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may ***purchase service***~~[obtain]~~ credit for ~~[prior or current service for]~~ any period of authorized maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of authorized sick leave without pay~~], by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account~~.
- (14)(16) (a) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, ***or as otherwise required by 38 U.S.C. ch. 43***, by: ~~[making installment payments in lieu of a lump-sum payment]~~
- 1.~~(a)~~ *Making a lump-sum payment on a before-tax basis as provided in subparagraph 3. of this paragraph, or on an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection;*
 2. *Entering into an agreement to purchase service credit through an installment purchase of service agreement with the systems as provided by paragraph (c) of this subsection:*
 - a. *On a before-tax basis in which the service is purchased pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or*
 - b. *On an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection; or*
 3. *Transferring funds to the systems through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder, or through a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. secs. 402(c) and 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder.*
- (b) *For purposes of this subsection, "grandfathered service" means service purchases for which a member, whose membership date in the system is prior to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that were available for all members of the system to purchase on August 5, 1997.*
- (c) 1. *For service purchased under a before-tax or after-tax installment purchase of service agreement as provided by paragraph (a)2. of this subsection, the cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal~~], except that~~ and interest compounded annually~~],~~ at the actuarial rate in effect at the time the member*

elects to make the purchase~~[compounded annually]~~, shall be added for the period that the installments are to be made.

2. Multiple service purchases may be combined under a single installment **agreement, except that**~~[purchase; however]~~, no employee may make more than one (1) installment purchase at the same time.
3. **For after-tax installment purchase of service agreements**, the employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining principal.
4. **Before-tax installment purchase of service agreements shall be irrevocable, and the employee shall not be able to stop installment payments or to pay off the remaining balance of the purchase of service agreement, except upon termination of employment or death.**
- 5.~~[(b)]~~ One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
- 6.~~[(c)]~~ The employee shall pay the installments by payroll deduction **for after-tax purchase of service agreements, and the employer shall pick up installments for before-tax purchase of service agreements**. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board~~[The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments]~~.
- 7.~~[(d)]~~ The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
- 8.~~[(e)]~~ If the employee **utilizing an installment purchase of service agreement dies, retires, does not continue employment in a position required to participate in the retirement system, or** elects to **stop an after-tax installment purchase of service agreement**~~[stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system]~~, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the **installment purchase of service agreement** by lump sum, **subject to the restrictions of paragraph (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of this subsection**, except that payment by the member shall be **filed with the system**~~[made]~~ prior to the **member's** effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased, **except as provided by subsection (22) of this section**.
- 9.~~[(f)]~~ If the employer does not report installment payments on an employee for sixty (60) days **for an after-tax installment purchase of service agreement**, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.
10. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
- 11.~~[(g)]~~ If payments have ceased under **subparagraph 8. or 9. of this paragraph**~~[paragraph (e) or (f) of this subsection]~~ and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments, **subject to the**

restrictions of this subsection. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection.

- (d) *Except as provided by paragraph (a)2.a. of this subsection, the cost of purchasing service shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer.*
- (e) *The cost of purchasing service credit under any provision of this section, except as provided by subsections (1) and (20) of this section, shall be determined by the delayed contribution method as provided by KRS 61.5525.*
- (f) *Member payments, including interest, properly received pursuant to this subsection shall be deposited to the member's account and considered as accumulated contributions of the individual member.*

~~(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 by transferring funds through a direct trustee to trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's account in the appropriate retirement system and shall be considered accumulated contributions of the member.~~

~~(15)(18)~~ After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase *service* credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. ~~The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments.~~ The employee ~~may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and~~ shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

~~(16)(19)~~ After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase *service* credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. ~~The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments.~~ The employee ~~may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee~~ shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

~~(17)(20)~~ Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-720, may purchase service credit for the time served in the corps ~~by making delayed contribution payments.~~

~~(18)(21)~~ An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community services program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may *purchase service* ~~obtain~~ credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability ~~, by paying to the state retirement system in which he participates a delayed contribution payment.~~

~~Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.~~

- ~~(19)(22)~~ An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. ~~The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).~~
- ~~(20)(23)~~ (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions **and any interest or penalties on the delinquent employer contributions** are received by the retirement system.
- (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions **and any interest or penalties on the delinquent employer contributions** are received by the retirement system. ~~The payments shall not be picked up, as described in KRS 61.560(4), by the employer.~~
- (c) Service purchased under this subsection by employees who begin participating on or after September 1, 2008, shall be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
- (d) Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by KRS 16.583 and 61.597 shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.
- (e) **Employer contributions payable under this subsection shall be considered delinquent and the employer shall be required to pay interest and any other penalties on the delinquent contributions in accordance with KRS 61.675(3)(b) and 78.625(2)(a) from the date the employee should have been reported and received service credit in accordance with KRS 16.543, 61.543, and 78.615.**
- ~~(21)(24)~~ Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. ~~The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or [in] increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.~~
- ~~(22)(25)~~ Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5)

years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. *The purchase shall be made in any of the systems administered by Kentucky Retirement Systems in which the employee is a member*~~[The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments].~~ The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

- (23)~~[(26)]~~ An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system.~~[The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.]~~
- ~~(27) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.505 to 16.552, 61.510 to 61.705, and 78.510 to 78.852, pursuant to the employer pick up provisions in 26 U.S.C. sec. 414(h)(2).]~~
- (24)~~[(28)]~~ An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1)~~[, by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (27) of this section, and shall be credited to the employee's second retirement account].~~ Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- (a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
 - (b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
 - (c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (25)~~[(29)]~~ An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given~~[, by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4)].~~
- (26)~~[(30)]~~ An employee participating in a hazardous position in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for service in a regular full-time position in an urban-county government that would qualify for hazardous duty coverage under KRS 61.592~~[by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4)].~~

- (27)~~[(31)]~~ Subsections (2) to (5), (7)~~[(8)]~~ to (13)~~[(15)]~~, (15)~~[(18)]~~ to (19)~~[(22), (24) to (26)]~~, and (21)~~[(28)]~~ to (26)~~[(30)]~~ of this section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.
- (28) *Service purchases made pursuant to subsections (2) to (5), (7), (10) to (13), (15) to (19), (21) to (23), (25), and (26) of this section shall be purchased by the entire amount of service available pursuant to that subsection or by increments. Service purchases made pursuant to subsections (1), (20), and (24) shall be purchased by the entire amount of service available.*

➔Section 10. KRS 61.5525 is amended to read as follows:

- (1) Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased. Effective September 1, 2008, the actuarial factor used to determine the cost of purchasing service credit shall assume the earliest date the member may retire without a reduction in benefits and the cost-of-living adjustments provided to members upon retirement under KRS 61.691.
- (2) ***Subsection (1) of this section***~~[This provision]~~ shall not apply to KRS 61.552(1) and (20)~~[(23)]~~ or 61.592(3)(c).
- (3) Service purchased on or after August 1, 2004, under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for service purchased under KRS 61.552(1) and (20)~~[(23)]~~, shall not be used to determine eligibility for or the amount of the monthly insurance contribution under KRS 61.702.
- (4) For a member whose participation begins on or after August 1, 2004, service purchased under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for service purchased under KRS 61.552(1) and (20)~~[(23)]~~, shall not be used to determine eligibility for a retirement allowance under disability retirement, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. Purchased service shall only be used to determine the amount of the retirement allowance of a member who is eligible for a retirement allowance under disability, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, based on service earned as a participating employee.

➔Section 11. KRS 61.555 is amended to read as follows:

- (1) (a) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated account balance, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if:
 1. ***The member's military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304;***~~[His discharge therefrom is honorable]~~ and
 2. ***The member***~~[He]~~ returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.
- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and 61.597, as though the member were employed during the member's period of active military duty described by this subsection.
- (c) ***The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.***
- (2) (a) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active

military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years ***if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304.***

- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and 61.597, as though the member were employed during the member's period of active military duty described by this subsection.
- (c) ***The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.***
- (3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.
- (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his ***military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304***~~[discharge therefrom is honorable]~~ and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.
- (5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.
- (6) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his ***military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304***~~[discharge therefrom is not dishonorable]~~ and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment ***in accordance with the payment options and restrictions established by subsection (14) of Section 9 of this Act. Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments***~~[Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account].~~
- (7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment ***in accordance with the payment options and restrictions established by subsection (14) of Section 9 of this Act.*** The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. ***Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments***~~[Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described~~

~~in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account~~.

- (8) For members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, in the hybrid cash balance plan prescribed by KRS 16.583 and 61.597, the provisions of subsections (4) to (7) of this section shall not apply.

➔Section 12. KRS 61.557 is amended to read as follows:

- (1) Inasmuch as the takeover of the Kentucky State Employment Service by the federal government, through its United States Employment Service and War Manpower Commission, was recognized by both federal and state governments as a temporary measure during the war emergency, and the employment service was, in fact, returned to the state government at the close of the emergency period, the employees of the service are recognized as employees of the Commonwealth for the purposes of KRS 61.510 to 61.692 during the period of control by the federal government, in the same manner as if they had been employed in another department of the government of the Commonwealth during that period.
- (2) If a parted employer rejoins a department as a result of the cancellation of a contract or lease arrangement, thereby causing each employee thereof to again become an employee as defined in KRS 61.510(5), the system may negotiate with the publicly held corporation or other similar organizations for payment for the years of service credit under the system for all employees working on the date the contract or other lease arrangement is canceled in order to avoid an impairment in the retirement benefits of the employees, if any payment accepted by the system for the service is ~~based on a formula~~ consistent with the provisions of **subsections (6) and (8) of Section 9 of this Act**~~[KRS 61.552(7)]~~. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

➔Section 13. KRS 61.560 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, ~~unless he did not elect membership pursuant to KRS 61.545(3), and~~ except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, **who became reemployed prior to September 1, 2008, and began participating in another retirement account** shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable~~, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year~~.
- (2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.
- (3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 14. KRS 61.590 is amended to read as follows:

- (1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, **a correctly completed** notification of retirement, giving his name, address, Social Security number **or Kentucky Retirement Systems member identification number**, last day of employment, and other information the system may require. The form entitled "Notification of Retirement" shall not be filed more than six (6) months before the member's effective retirement date.
- (2) ~~After receipt~~~~Within ten (10) days of the receipt~~ of the **correctly completed** form entitled "Notification of Retirement"~~submitted within two (2) months of the effective date of retirement~~, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.~~If the member submits a form entitled "Notification of Retirement" more than two (2) months prior to the effective retirement date, the system shall provide the form entitled "Estimated Retirement Allowance" within forty five (45) days of the member's effective retirement date.~~
- (3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked **one (1)**~~the~~ payment option of his choice, signed the document, and had his signature witnessed. A member shall not have the right to select a different payment option **on or** after the first day of the month in which the member receives his or her first retirement allowance or after the effective date of a deferred retirement option as provided by subsection (6) of this section. A beneficiary shall not have the right to select a different payment option after the effective date of the beneficiary's retirement allowance as provided in subsection (7) of this section.
- (4) A member or beneficiary choosing a monthly payment option shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.
- (5)
 - (a) The effective date of normal retirement shall be the first month following the month in which employment **from all employers participating in any of the systems administered by Kentucky Retirement Systems** was terminated~~from a regular full-time position~~.
 - (b) The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred, provided the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following the date the notification of approval for disability retirement benefits is mailed. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months of the date the notification of approval for disability retirement benefits is mailed, then the member's form entitled "Notification of Retirement" shall be void. The member shall be required to submit a new form entitled "Notification of Retirement" to apply for disability retirement and reestablish eligibility for disability retirement benefits.
 - (c) The effective date of early retirement shall be the first month following the month **a correctly completed**~~the~~ form entitled "Notification of Retirement" is filed at the retirement office or a future month designated by the member, if employment **from all employers participating in any of the systems administered by Kentucky Retirement Systems**~~in a regular full-time position~~ has been terminated and if the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following termination. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months following the effective retirement date of the member, then the member's form entitled "Notification of Retirement" shall be void and the member shall be required to submit a new form entitled "Notification of Retirement" to apply for early retirement.
- (6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.
- (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

➔Section 15. KRS 61.592 is amended to read as follows:

- (1) (a) "Hazardous position" for employees participating in the Kentucky Employees Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:
 1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
 2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and
 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.
 - (b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:
 1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
 2. The employee's duties are not primarily clerical or administrative.
 - (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) (a) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.
 - (b) Each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.
- (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous

position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.

- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
- (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may ***pay the cost of converting the service and provide payment for the cost as provided by subsection (14) of Section 9 of this Act***~~make the lump sum payment in his own behalf or may pay by increments~~. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous. The provisions of this paragraph shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.
- (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

➔Section 16. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:~~;~~
 - 1. Upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, including those members who participate in the hybrid cash balance plan within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System on or after January 1, 2014;~~;~~
 - 2. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits;~~;~~

3. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system;~~+~~
 4. If the member has prior service in more than one (1) system ***administered by Kentucky Retirement Systems***, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this ***subsection***; ~~and~~~~[section.]~~
 5. Upon the determination of benefits, each system shall pay the applicable ***amount of benefits due the member***~~[percentage of total benefits]~~.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
1. Notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System; ***or***
 2. ***Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.***
- (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) (a) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership.
- (b) Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.
- (c) A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the

Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).

- (5) ~~Effective July 1, 1974, if~~ Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (7) (a) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
- (b) *Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky Retirement Systems.*
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

➔Section 17. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the

agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
 - (a) Means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4);~~[-]~~
 - (b) *Includes:*~~[-]~~~~A-~~
 1. Lump-sum ~~bonuses~~~~[bonus]~~, severance pay, or employer-provided ~~payments~~~~[payment]~~ for purchase of service credit, ~~which shall be included as creditable compensation but~~ shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);~~[-]~~
 2. ~~Cases where~~~~[if]~~ compensation includes maintenance and other perquisites, *but* the board shall fix the value of that part of the compensation not paid in money;~~[-]~~
 3. *Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal*

discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. *Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and*
5. *Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and*

(c) *Excludes:*

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board; ~~shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4).~~
2. For employees who begin participating on or after September 1, 2008, *lump-sum* ~~creditable compensation shall not include~~ payments for compensatory time; ~~and~~
3. ~~Creditable compensation shall not include~~ Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin participating on or after August 1, 2016, creditable compensation shall exclude nominal fees paid for services as a volunteer;

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or

- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary~~[-, also referred to as probationary,]~~ positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;~~[-or]~~
 - (d) ***Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or***
 - (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (38) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:

- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date; and
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection.

➔Section 18. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating county after the date the county first participates in the system, ~~except a person who did not elect membership pursuant to KRS 61.545(3), and~~ except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system;
- (2)
 - (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;
 - (b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;
- (3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment, provided the person began participating in the system prior to January 1, 2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
- (4) All persons electing coverage in the system under KRS 78.530(3)(d).
- (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.
- (6) Membership in the system shall not include persons who are not eligible to participate in the system as provided by KRS 61.522 or those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

➔Section 19. KRS 78.610 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation ~~unless he did not elect membership pursuant to KRS 61.545(3)].~~
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.

- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 20. KRS 78.615 is amended to read as follows:

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by ~~KRS 61.545(3)~~ or by ~~KRS 78.540(2)~~ or is not eligible to participate in the system as provided by KRS 61.522. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).
 - (a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.
 - (b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of calendar days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars (\$1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars (\$250) for each additional thirty (30) day period the information is reported late.
 1. If the employee works fewer than the number of contracted calendar days, the employee shall receive service credit determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
 2. If the employee works fewer than the number of contracted calendar days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
 3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

- (c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each employee who made contributions to his or her account during the year. Employees shall be entitled to a full year of service credit if their total paid calendar days were not less than one hundred eighty (180) calendar days for a regular school or fiscal year. In the event an employee is paid for less than one hundred eighty (180) calendar days, the employee may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Employees who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Employees who are employed and paid for less than the number of calendar days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of calendar days employed and the number of calendar days in the employee's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the employee is employed during that year.
- (d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable.
- (2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.
- (3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:
 - (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and
 - (b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.
- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

➔Section 21. KRS 61.702 is amended to read as follows:

- (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.
- 2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.
- 3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
 - a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;

- b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
 - c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.
- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
- (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.
- (2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (b)
 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member having a membership date on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520.
 2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
 3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
 4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. No member may receive a rebate or refund of contributions. If a member establishes a

membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20)~~[(23)]~~, then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 through the use of separate accounts.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
 3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
 4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or
 6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an

employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (b) 1. For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one (1) of the other state-administered retirement plans.
 - 2. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance trust fund accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance trust fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
 - 3. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
 - 4. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
 - 5. The premium paid by the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not exceed one hundred percent (100%) of the monthly contribution rate toward hospital and medical insurance coverage approved by the board of trustees of the Kentucky Retirement Systems.
- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.
 - (b) The other provisions of this section notwithstanding, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the

member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8)
 - (a)
 - 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
 - 2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
 - (b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:
 - 1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.

2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.
- (c) 1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19), and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
2. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.
3. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a hazardous position.
- (d) The monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- (e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

Signed by Governor March 20, 2017.

CHAPTER 33

(HB 189)

AN ACT relating to area development districts.

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

➔Section 1. KRS 147A.070 is amended to read as follows:

- (1) ***Subject to the requirements of subsection (3) of this section,*** the board of directors in each district may appoint an executive director ***and deputy executive director*** and fix ~~the [his]~~ salary ***for each position***. The executive director shall perform, in the name of the board, such functions and duties and may exercise such authority of the board as the board may delegate to ***the executive director. The deputy executive director, if one is hired, shall perform such functions and duties as designated by the executive director***~~[him]~~.
- (2) The board of directors in each district may elect from its membership an executive committee and delegate to the committee any of the following duties:

- (a) To employ such staff members as may be required for the operations of the district;
 - (b) To manage the financial assets and obligations of the district;
 - (c) To guide the activities of the district between meetings of the board; and
 - (d) To perform such other duties as the board might delegate to it.
- (3) *On or after the effective date of this Act, an open position for the executive director or deputy executive director with an area development district shall be advertised by the board of directors in a manner designed to provide adequate notice of the opening and sufficient time for interested applicants to apply. Advertisement of an open position shall, at a minimum, be published on the Web site of the district and published in accordance with KRS Chapter 424 at a minimum for a period of twenty-one (21) days.*
- (4) *Bonuses, awards, one (1) time salary adjustments, special salary enhancements, or severance pay for any employee, unless severance pay is provided pursuant to a contract approved by the board, that do not constitute a permanent change in the employee's compensation shall not be made or awarded to any employee of a district.*

➔SECTION 2. A NEW SECTION OF KRS 147A.050 TO 147A.140 IS CREATED TO READ AS FOLLOWS:

- (1) *By December 31 of each year beginning in 2017, the Cabinet for Health and Family Services and the Education and Workforce Development Cabinet shall, following any year in which the cabinet awarded federal or state funds to an area development district, prepare and submit a detailed report to the Legislative Research Commission and area development district board members. The report shall include the total amount of state and federal funds distributed to each area development district, broken down by funding source and program from the preceding fiscal year.*
- (2) *By December 31 of each year beginning in 2017, each area development district shall, following any year in which the area development district receives state or federal funds, prepare and submit a detailed report to the Legislative Research Commission and area development board members. The report shall include the following financial information from the preceding fiscal year:*
- (a) *For each allocation, distribution, award, or grant of state or federal funds, the total amount, the percentage of the total amount, and a description of the specific types of expenditures made for or allocated to:*
 - 1. *Administrative costs;*
 - 2. *Direct expenditures; and*
 - 3. *Indirect expenditures;*
 - (b) *Allocation, distribution, award, or grant funds not expended, and an explanation of why the funds were not expended;*
 - (c) *The total amount of reserves carried forward by the area development district, identification of the source of those funds, and an explanation of why the funds are being carried forward; and*
 - (d) *For each program:*
 - 1. *A list of direct services provided by the district;*
 - 2. *A list of service providers contracted by the district and the services provided by those providers;*
 - 3. *The number of eligible persons for the program, number of persons served by the program, and, if applicable, number of people on waiting lists for the program; and*
 - 4. *The performance measures required by the contract used to evaluate the area development district's actions.*
- (3) *The Legislative Research Commission shall distribute the report to the appropriate interim joint committees and to the budget review subcommittee that has jurisdiction over the Cabinet for Health Family Services or the Education and Workforce Development Cabinet.*

➔SECTION 3. A NEW SECTION OF KRS 147A.050 TO 147A.140 IS CREATED TO READ AS FOLLOWS:

- (1) *By January 1, 2018, each area development district and any board, committee, or other organization created by an area development district shall:*
- (a) *Comply with the provisions of KRS 61.870 to 61.884;*
 - (b) *Comply with the provisions of KRS 61.800 to 61.850;*
 - (c) *Comply with state and federal procurement statutes and administrative regulations, as applicable;*
 - (d) *Comply with and be subject to the provisions of KRS 65A.070 by either adopting a code of ethics or abiding by the applicable code of ethics pursuant to KRS 65A.070;*
 - (e) *Adopt policies to address conflicts of interest for employees and board members of the area development districts, which shall include a prohibition on employees and board members having any interest, either direct or indirect, in any contract entered into by the area development district or any agency created by the area development district;*
 - (f) *Be subject to the provisions of KRS 61.101 to 61.103;*
 - (g) *Subject to the provisions of subsection (4) of Section 1 of this Act, adopt, implement, and maintain a detailed and equitable compensation policy for its employees; and*
 - (h) *Establish and maintain an independent process to receive, analyze, investigate and resolve concerns relating to the area development district, including alleged violations of the code of ethics or any of the provisions of this section. The process shall include a monthly reporting requirement to the board members of the area development district of any reported concerns or alleged violations. If the process finds a reasonable likelihood that a violation exists, then that alleged violation shall be reported to the Department for Local Government, the Auditor of Public Accounts, and the Attorney General; and*
- (2) *By July 1, 2020, each area development district and any board, committee, or other organization created by an area development district shall provide public access to financial information in compliance with the provisions of KRS 65.312(4).*

➔SECTION 4. A NEW SECTION OF KRS 147A.050 TO 147A.140 IS CREATED TO READ AS FOLLOWS:

- (1) *No area development district shall enter into any contract with a certified public accountant or firm to perform an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The area development district shall furnish the Auditor of Public Accounts with a comprehensive statement of the scope and nature of the proposed audit. The actual expense of an audit performed by the Auditor of Public Accounts shall be billed to the audited area development district.*
- (2) *Any contract with a certified public accountant or firm entered into as a result of the Auditor of Public Accounts either declining to perform the audit or failing to respond within thirty (30) days of receipt of a written request for an audit shall specify the following:*
 - (a) *That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts for review;*
 - (b) *That the Auditor of Public Accounts shall have the right to review the certified public accountant or firm's work papers before and after the release of the audit; and*
 - (c) *That after review of the certified public accountant or firm's work papers, should discrepancies be found, the Auditor of Public Accounts shall notify the audited entity of the discrepancies. If the certified public accountant or firm does not correct these discrepancies prior to the release of the audit, the Auditor of Public Accounts may conduct its own audit to verify the findings of the certified public accountant's report.*
- (3) *If an audit verifying the findings of the certified public accountant or firm's report is conducted by the Auditor of Public Accounts, the actual expense of the audit shall be billed to the area development district.*

➔Section 5. Section 4 of this Act shall take effect on July 1, 2018.

Signed by Governor March 20, 2017.

CHAPTER 34**(HB 191)**

AN ACT relating to insurance.

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

➔Section 1. KRS 329A.070 is amended to read as follows:

The provisions of KRS 329A.010 to 329A.090 do not apply to:

- (1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;
- (2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;
- (3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;
- (4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law or authorized agent with duties limited to document and record retrieval or witness interviews;
- (5) An insurance company, licensed insurance agent, ~~for~~ staff or independent adjuster if authorized to do business in Kentucky, *or an individual employed by an insurance company or licensed insurance agent to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments*, performing investigative duties limited to matters strictly pertaining to an insurance transaction;
- (6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;
- (7) A private business employee conducting investigations relating to the company entity by which he or she is employed;
- (8) An individual obtaining information or conducting investigations on his or her own behalf;
- (9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than two hundred forty (240) hours per year. The board shall promulgate administrative regulations to establish a method of verification of the number of hours worked;
- (10) A professional engineer, a professional land surveyor, or a professional engineer's or professional land surveyor's bona fide employee, performing duties within the scope of practice of engineering or land surveying; or
- (11) A secured creditor, or person acting on behalf of a secured creditor, engaged in the repossession of the creditor's collateral pursuant to KRS 355.9-609.

➔Section 2. KRS 304.9-430 is amended to read as follows:

- (1) No person shall in this state act as or hold himself, herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the ~~[Kentucky] department [of Insurance]~~ as an independent, staff, or public adjuster.
- (2) An individual applying for a resident independent, staff, or public adjuster license shall make application to the commissioner on the appropriate uniform individual application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual to be licensed:
 - (a) Is at least eighteen (18) years of age;
 - (b) Is eligible to designate Kentucky as his or her home state;

- (c) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
 - (d) Has not committed any act that is a ground for probation or suspension, revocation, or refusal of a license as set forth in KRS 304.9-440;
 - (e) Has successfully passed the examination for the adjuster license and the applicable line of authority for which the individual has applied;
 - (f) Has paid the fees established by the commissioner pursuant to KRS 304.4-010; and
 - (g) Is financially responsible to exercise the license.
- (3) (a) To demonstrate financial responsibility, a person applying for a public adjuster license shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license with the following limits:
- 1. A surety bond executed and issued by an insurer authorized to issue surety bonds in Kentucky, which bond shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be in favor of the state of Kentucky and shall specifically authorize recovery of any person in Kentucky who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or
 - 2. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:
 - a. Be in the minimum amount of twenty thousand dollars (\$20,000);
 - b. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination.
- (b) The commissioner may ask for evidence of financial responsibility at any time he or she deems relevant.
- (c) The public adjuster license shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired and shall be promptly surrendered to the commissioner without demand.
- (4) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on the appropriate uniform business entity application and in a format prescribed by the commissioner. The applicant shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:
- (a) Is eligible to designate Kentucky as its home state;
 - (b) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Kentucky;
 - (c) Has not committed an act that is a ground for probation or suspension, revocation, or refusal of an independent or public adjuster's license as set forth in KRS 304.9-440; and
 - (d) Has paid the fees established by the commissioner pursuant to KRS 304.4-010.
- (5) The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.

- (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity who has met the requirements of subsections (2) to (5) of this section shall be issued an independent, staff, or public adjuster license.
- (7) An independent or staff adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty;
 - (b) Workers' compensation; or
 - (c) Crop.
- (8) ***Notwithstanding any other provision of this subtitle, an individual who is employed by an insurer to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments, shall not be required to be licensed as a staff adjuster.***
- (9) A public adjuster may qualify for a license in one (1) or more of the following lines of authority:
 - (a) Property and casualty; or
 - (b) Crop.
- ~~(10)~~~~(9)~~ Notwithstanding any other provision of this subtitle, a license as an independent adjuster shall not be required of the following:
 - (a) An individual who is sent into Kentucky on behalf of an insurer for the sole purpose of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the adjustment of a series of losses resulting from a catastrophe common to all losses;
 - (b) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (c) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;
 - (d) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments;
 - (e) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives;
 - (f) A licensed health care provider or its employee who provides managed care services as long as the services do not include the determination of compensability;
 - (g) A health maintenance organization or any of its employees or an employee of any organization providing managed care services as long as the services do not include the determination of compensability;
 - (h) A person who settles only reinsurance or subrogation claims;
 - (i) An officer, director, manager, or employee of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;
 - (j) A United States manager of the United States branch of an alien insurer;
 - (k) A person who investigates, negotiates, or settles claims arising under a life, accident and health, or disability insurance policy or annuity contract;
 - (l) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;
 - (m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer, to whom claim authority has been granted by the insurer; or
 - (n) A person who:
 - 1. Is an employee of a licensed independent adjuster or an employee of an affiliate that is a licensed independent adjuster or is supervised by a licensed independent adjuster, if there are no more than twenty-five (25) persons under the supervision of one (1) licensed individual independent

adjuster or licensed agent who is exempt from licensure pursuant to paragraph (m) of this subsection;

2. Collects claim information from insureds or claimants;
3. Enters data into an automated claims adjudication system; and
4. Furnishes claim information to insureds or claimants from the results of the automated claims adjudication system.

For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system-generated final resolution of consumer electronic products insurance claims that complies with claim settlement practices pursuant to Subtitle 12 of KRS Chapter 304.

~~(11)~~~~(10)~~ Notwithstanding any other provision of this subtitle, a license as a public adjuster shall not be required of the following:

- (a) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
- (b) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
- (c) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts; or
- (d) A licensed health care provider or its employee who prepares or files a health claim form on behalf of a patient.

~~(12)~~~~(11)~~ For purposes of this section, "home state" means any state or territory of the United States or the District of Columbia in which an independent, staff, or public adjuster maintains his, her, or its principal place of residence or business and is licensed to act as a resident independent, staff, or public adjuster. If the state of the principal place of residence does not license an independent, staff, or public adjuster for the line of authority sought, the independent, staff, or public adjuster shall designate as his, her, or its home state, any state in which the independent or public adjuster is licensed and in good standing.

~~(13)~~~~(12)~~ Temporary registration for emergency independent or staff adjusters shall be issued by the commissioner in the event of a catastrophe declared in Kentucky in the following manner:

- (a) An insurer shall notify the commissioner by submitting an application for temporary emergency registration of each individual not already licensed in the state where the catastrophe has been declared, who will act as an emergency independent adjuster on behalf of the insurer;
- (b) A person who is otherwise qualified to adjust claims, but who is not already licensed in the state, may act as an emergency independent or staff adjuster and adjust claims if, within five (5) days of deployment to adjust claims arising from the catastrophe, the insurer notifies the commissioner by providing the following information, in a format prescribed by the commissioner:
 1. The name of the individual;
 2. The Social Security number of the individual;
 3. The name of the insurer that the independent or staff adjuster will represent;
 4. The catastrophe or loss control number;
 5. The catastrophe event name and date; and
 6. Any other information the commissioner deems necessary; and
- (c) An emergency independent or staff adjuster's registration shall remain in force for a period not to exceed ninety (90) days, unless extended by the commissioner.

~~(14)~~~~(13)~~ (a) Unless refused licensure in accordance with KRS 304.9-440, a nonresident person shall receive a nonresident independent, staff, or public adjuster license if:

1. The person is currently licensed in good standing as an independent, staff, or public adjuster in his, her, or its home state;

2. The person has submitted the proper request for licensure, and has paid the fees required by KRS 304.4-010;
 3. The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and
 4. The person's designated home state issues nonresident independent, staff, or public adjuster licenses to persons of Kentucky on the same basis.
- (b) The commissioner may verify the independent, staff, or public adjuster's licensing status through any appropriate database or may request certification of good standing.
 - (c) As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.
 - (d) The nonresident adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the resident adjuster license terminates for any reason, unless the termination is due to the adjuster being issued a new resident independent or public adjuster license in his, her, or its new home state. If the new resident state does not have reciprocity with Kentucky, the nonresident adjuster license shall terminate.

~~[(14) An individual applying for a nonresident independent, staff, or public adjuster license in Kentucky shall be allowed one hundred eighty (180) days from July 15, 2010, to establish a home state. This subsection shall expire two (2) years from July 15, 2010.]~~

➔Section 3. KRS 304.20-020 is amended to read as follows:

- (1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided that ~~any~~~~the~~ named insured shall have the right to reject in writing such coverage; and provided further that ***the rejection shall be valid for all insureds under the policy, and*** unless ~~at~~~~the~~ named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal, ***reinstatement, substitute, replacement, or amended policy issued to the same named insured by the same insurer or any of its affiliates or subsidiaries***~~[where the named insured had rejected the coverage in connection with a policy previously issued to him or her by the same insurer].~~
- (2) For the purpose of this coverage the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; an insured motor vehicle with respect to which the amounts provided, under the bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, are less than the limits described in KRS 304.39-110; and an insured motor vehicle to the extent that the amounts provided in the liability coverage applicable at the time of the accident is denied by the insurer writing the same.
- (3) Protection against an insurer's insolvency shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.
- (4) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

➔Section 4. KRS 304.39-230 is amended to read as follows:

- (1) If no basic or added reparation benefits have been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two (2) years after the injured person suffers the loss and either knows, or in the exercise of reasonable diligence should know, that the loss was caused by the accident, or not later than four (4) years after the accident, whichever is earlier. If basic or added reparation benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two (2) years after the last payment of benefits.
- (2) If no basic or added reparation benefits have been paid to the decedent or his *or her* survivors, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two (2) years after the last payment of benefits. If basic or added reparation benefits have been paid for loss suffered by an injured person before his *or her* death resulting from the injury, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the last payment of benefits, whichever is earlier.
- (3) If timely action for basic reparation benefits is commenced against a reparation obligor and benefits are denied because of a determination that the reparation obligor's coverage is not applicable to the claimant under the provisions on priority of applicability of basic reparation security, an action against the applicable reparation obligor or the assigned claims bureau may be commenced not later than sixty (60) days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.
- (4) Except as subsections (1), (2), or (3) of this section prescribe a longer period, an action by a claimant on an assigned claim which has been timely presented may be commenced not later than sixty (60) days after the claimant received written notice of rejection of the claim by the reparation obligor to which it was assigned.
- (5) If a person entitled to basic or added reparation benefits is under legal disability when the right to bring an action for the benefits first accrues, the period of his *or her* disability is a part of the time limited for commencement of the action.
- (6) An action for tort liability not abolished by KRS 304.39-060 may be commenced not later than two (2) years after the injury, or the death, or the *date of issuance of the* last basic or added reparation payment made by any reparation obligor, whichever later occurs. *For the purposes of determining the date of issuance of the last basic or added reparation payment made by a reparation obligor, a replacement payment does not extend the date beyond the date of the original payment. For the purposes of this section, "replacement payment" means a payment in the same amount as the original payment, but which is issued as a replacement for the original payment for reasons including but not limited to the original payment being lost, stolen, or not delivered. A reparation obligor shall provide to a claimant or the claimant's attorney upon written request information on whether any payment is a replacement payment.*

➔Section 5. KRS 304.9-295 is amended to read as follows:

- (1) This section shall apply to individuals who hold licenses or lines of authority requiring continuing education each biennium.
- (2) The continuing education biennial compliance date for an individual resident licensee shall be as follows:
 - (a) A licensee whose birth date is in an even-numbered year shall satisfy continuing education requirements on or before the last day of the licensee's birth month in the even-numbered year. A licensee shall show proof of compliance to the commissioner within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next even-numbered year and each subsequent even-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same;
 - (b) A licensee whose birth date is in an odd-numbered year shall satisfy continuing education requirements and show proof of compliance to the commissioner on or before the last day of the licensee's birth month in the odd-numbered year. A licensee shall show proof of compliance to the commissioner within sixty (60) days after the continuing education biennial compliance date. If the licensee has not held the license for one (1) year, the compliance date is adjusted to the next odd-numbered year and each subsequent odd-numbered year thereafter. If the license becomes inactive and reissued within a twelve (12) month period, the compliance date shall remain the same.

- (3) This section shall not apply to:
- (a) Limited lines of authority under agent licenses, as exempted by the commissioner in accordance with KRS 304.9-230;
 - (b) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium;
 - (c) Licensees holding nonresident licenses who have met the continuing education requirements of their home state and whose home state gives credit to Kentucky resident licensees on the same basis; or
 - (d) Licensees maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.
- (4) A licensee, who holds an agent license and who is not exempt under subsection (3) of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which three (3) hours shall have a course concentration in ethics, during each continuing education biennium.
- (5) Beginning July 31, 2012, an individual who holds an independent or public adjuster license and who is not exempt under KRS 304.9-430 **(10) or (11)**~~[(9) or (10)]~~, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which three (3) hours shall have a course concentration in ethics in accordance with subsection (4) of this section. Continuing education hours shall be reported to the commissioner on a biennial basis in conjunction with the licensee's renewal in accordance with subsection (10) of this section.
- (6) Only continuing education courses approved by the commissioner shall be used to satisfy the continuing education requirement of subsection (4) of this section and any other continuing education requirement of this chapter.
- (a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:
 - 1. Any part of the Life Underwriter Training Council life course curriculum;
 - 2. Any part of the Health Underwriter Training Council health course curriculum;
 - 3. Any part of the American College Chartered Life Underwriter diploma curriculum;
 - 4. Any part of the American Institute for Property and Liability Underwriters' chartered property and casualty underwriter profession designation program;
 - 5. Any part of the Insurance Institute of America's programs;
 - 6. Any part of the certified insurance counselor program;
 - 7. Any insurance related course taught at an accredited college or university, if the course is approved by the commissioner;
 - 8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;
 - 9. Any correspondence course approved by the commissioner; and
 - 10. Any course in accordance with provisions of reciprocal agreements the commissioner enters with other states.
 - (b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved in accordance with this subsection. Continuing education courses submitted in accordance with a reciprocal agreement shall be approved according to the provisions of the reciprocal agreement.
 - (c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to licensees who do not successfully complete the written examination.
 - (d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in Subtitle 4 of KRS Chapter 304.
 - (e) For continuing education courses of reciprocal states, continuing education providers shall be approved in accordance with the provisions of the reciprocal agreements.

- (7) An individual teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a licensee taking and satisfactorily completing the course.
- (8) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.
- (9) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (2) of this section may be completed, but the extension of time shall not exceed two (2) years. What constitutes good cause for the extension of time rests within the discretion of the commissioner.
- (10) Every licensee subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by the licensee. The certification shall be signed by or on behalf of the provider sponsoring the continuing education course. The certification shall be on a form prescribed by the commissioner.
- (11) The provider shall furnish to the commissioner certification as to the continuing education courses satisfactorily completed by each licensee. The certification shall be signed or authenticated by or on behalf of the provider sponsoring the continuing education course. The certification shall be on a form or in a format prescribed by the commissioner.
- (12) The license or line of authority requiring continuing education shall expire if the individual holding the license or line of authority fails to comply with the continuing education requirement and has not been granted an extension of time to comply in accordance with subsection (9) of this section. If the license has expired, the license shall be promptly surrendered to the commissioner without demand. If the line of authority has terminated but another line of authority not requiring continuing education is still in effect, the license shall be promptly delivered to the commissioner for reissuance as to the line of authority still in effect.
- (13) The license of any individual subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed, or both, in accordance with KRS 304.9-440, if the individual submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.
- (14) (a) The commissioner may withdraw approval of a continuing education provider, course, or instructor for good and just cause.
(b) In addition to or in lieu of withdrawal of approval, the commissioner may impose a civil penalty of not more than one thousand dollars (\$1,000) per violation of this chapter by a provider or an instructor.

➔Section 6. KRS 304.9-436 is amended to read as follows:

- (1) An authorized insurer shall not do business in Kentucky with an adjuster who is unlicensed in violation of KRS 304.9-080 and 304.9-430. This section shall not apply to transactions between an authorized insurer and persons providing adjusting services pursuant to KRS 304.9-430 *(10), (11), and (13)*~~[(9), (10), and (12)]~~.
- (2) An authorized insurer shall not do business in Kentucky with an administrator who is not licensed in accordance with KRS 304.9-052. This subsection shall not apply to transactions between an authorized insurer and persons providing administrator services pursuant to KRS 304.9-051.

Signed by Governor March 20, 2017.

CHAPTER 35

(HB 265)

AN ACT relating to overdimensional vehicle loads and declaring an emergency.

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

➔Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter:

- (1) "Department" means the Department of Highways.

- (2) "Crosswalk" means:
 - (a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or
 - (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- (3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes private residential roads and parking lots covered by an agreement under KRS 61.362, off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.
- (4) "Intersection" means:
 - (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or
 - (b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.
- (5) "Manufactured home" has the same meaning as defined in KRS 186.650.
- (6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds.
- (7) "Operator" means the person in actual physical control of a vehicle.
- (8) "Pedestrian" means any person afoot or in a wheelchair.
- (9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.
- (10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.
- (11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.
- (13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.
- (14) "Sharp curve" means a curve of not less than thirty (30) degrees.
- (15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law.
- (16) "Steep grade" means a grade exceeding seven percent (7%).
- (17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.
- (18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

- (19) (a) "Vehicle" includes:
1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and
 2. All vehicles passing over or upon the highways.
- (b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:
1. Road rollers;
 2. Road graders;
 3. Farm tractors;
 4. Vehicles on which power shovels are mounted;
 5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;
 6. Vehicles that travel exclusively upon rails;
 7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and
 8. Vehicles propelled by muscular power.
- (20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.
- (21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.
- (22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.
- (24) "All-terrain vehicle" means any motor vehicle used for recreational off-road use.
- (25) *"Nondivisible load," as pertains to state highways that are not part of the national truck network established pursuant to 23 C.F.R. pt. 658, means a load or vehicle, that if separated into smaller loads or vehicles:*
- (a) *Compromises the intended use of the vehicle, making it unable to perform the function for which it was intended;*
 - (b) *Destroys the value of the load or vehicle, making it unusable for its intended purpose; or*
 - (c) *Requires more than four (4) work hours to dismantle and reassemble using appropriate equipment.*

➔Section 2. Whereas the definitions contained in this Act directly affect and enhance the speedy and efficient delivery of equipment, particularly farm implements needed for spring planting, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 20, 2017.

CHAPTER 36

(HB 268)

AN ACT relating to death-in-the-line-of-duty benefits for the Department of Military Affairs.

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

➔Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section:

- (a) "Police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state;
- (b) "Firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations; and
- (c) "Emergency medical services personnel" means any paid or volunteer emergency medical services personnel who is certified or licensed pursuant to KRS Chapter 311A and who is employed directly by, or volunteering directly for, any:
 - 1. County;
 - 2. City;
 - 3. Fire protection district created under KRS 75.010 to 75.260; or
 - 4. Emergency ambulance service district created under KRS 108.080 to 108.180;to provide emergency medical services.

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty under Title 10 or 32 of the United States Code who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. The spouse of any emergency medical services personnel whose death occurs on or after November 1, 2015, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

- (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
- (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, any metropolitan or urban-county correctional officers with the power of a peace officer pursuant to KRS 446.010, or any jailers or deputy jailers, including but not limited to defining when one has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including but not limited to defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to emergency medical services personnel, including but not limited to which employees or volunteers qualify for coverage and which circumstances constitute death in the line of duty.
- (7) ***The Department of Military Affairs shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to National Guard or Reserve component members, including but not limited to defining which National Guard or Reserve component members qualify for coverage and which circumstances constitute death in the line of duty.***
- ~~(8)(7)~~ The estate of anyone whose spouse or surviving children would be eligible for benefits under subsection (2) of this section, and the estate of any regular member of the United States Armed Forces who names Kentucky as home of record for military purposes whose death occurs as a direct result of an act in the line of duty, shall be exempt from all probate fees, including but not limited to those established by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or imposed under KRS 24A.185, 64.012, and 172.180.
- ~~(9)(8)~~ The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, emergency medical services personnel, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- ~~(10)(9)~~ Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.
- ~~(11)(10)~~ (a) For the purposes of this section, if a firefighter dies as a result of cancer, the death shall be a direct result of an act in the line of duty if the firefighter:
1. Was a firefighter for at least five (5) consecutive years;
 2. Developed one (1) or more of the cancers listed in paragraph (b) of this subsection which caused the firefighter's death within ten (10) years of separation from service as a firefighter;
 3. Did not use tobacco products for a period of ten (10) years prior to the diagnosis of cancer;
 4. Was under the age of sixty-five (65) at the time of death;
 5. Was not diagnosed with any cancer prior to employment as a firefighter; and
 6. Was exposed while in the course of firefighting to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program, and the carcinogen is reasonably associated with one (1) or more of the cancers listed in paragraph (b) of this subsection.
- (b) This section shall apply to the following cancers:
1. Bladder cancer;
 2. Brain cancer;
 3. Colon cancer;
 4. Non-Hodgkin's lymphoma;
 5. Kidney cancer;

6. Liver cancer;
 7. Lymphatic or haematopoietic cancer;
 8. Prostate cancer;
 9. Testicular cancer;
 10. Skin cancer;
 11. Cervical cancer; and
 12. Breast cancer.
- (c) 1. The provisions of this subsection creating an entitlement to the line of duty death benefits shall apply exclusively to this section and shall not be interpreted or otherwise construed to create either an express or implied presumption of work-relatedness for any type of claim filed pursuant to KRS Chapter 342.
2. This paragraph is intended to provide clarification regarding the sole and exclusive application of this subsection to only the benefits available under this section and shall not be used as a bar or other type of limitation to impair or alter the rights and ability of a claimant to prove work-relatedness under KRS Chapter 342 or other laws.

Signed by Governor March 20, 2017.

CHAPTER 37

(HB 269)

AN ACT relating to substitutes for certified and classified school personnel.

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

➔Section 1. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
- (a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
 - (b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;
 - (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and
 - (d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) Except as provided in KRS 160.346:
- (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board.

Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district;
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection;~~{and}~~
- (g)
 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
 2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph; *and*
- (h) *A relative that is ineligible for employment under paragraph (e), (f), or (g) of this subsection may be employed as a substitute for a certified or classified employee if the relative is not:*
 1. *A regular full-time or part-time employee of the district;*
 2. *Accruing continuing contract status or any other right to continuous employment;*

3. *Receiving fringe benefits other than those provided other substitutes; or*

4. *Receiving preference in employment or assignment over other substitutes.*

- (3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (5)
 - (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
 - (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (6)
 - (a) A superintendent shall require a state criminal background check on all classified initial hires.
 - (b) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
 - (c) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7) The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (8)
 - (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
 - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (9) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
 - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (11) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. The results of the state criminal history background check and the results of the national criminal history background check, if requested, shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.
- (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

Signed by Governor March 20, 2017.

CHAPTER 38

(HB 289)

AN ACT relating to reorganization.

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

➔Section 1. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 1. Training Operations Division; *and*
 2. Administrative Division; ~~and~~
 3. ~~Training Support Division;~~
 - (c) Department of Juvenile Justice, which shall have the following divisions:
 1. Division of Medical Services;
 2. Division of Western Region;
 3. Division of Central Region;
 4. Division of Eastern Region;
 5. Division of Southeastern Region;
 6. Division of Administrative Services;
 7. Division of Program Services;
 8. Division of Placement Services;
 9. Division of Professional Development; and
 10. Division of Community and Mental Health Services;
 - (d) Department of Kentucky State Police, which shall have the following divisions:
 1. Administrative Division;
 2. Operations Division;
 3. Technical Services Division; and
 4. Commercial Vehicle Enforcement Division; and
 - (e) Department for Public Advocacy, which shall have the following divisions:
 1. Protection and Advocacy Division;
 2. Division of Law Operations;
 3. Division of Trial Services;
 4. Division of Post-Trial Services; and
 5. Division of Conflict Services.
- (2) Each department, except for the Department for Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department for Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department for Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
 - (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 - 1. Shall provide legal representation and services for the cabinet; and
 - 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department for Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department for Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 2. KRS 15A.030 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, in addition to the departments, divisions, offices, and branches set forth in KRS 15A.020, shall consist of the following organizational units:
 - (a) Kentucky State Corrections Commission, supported by the Department of Corrections;
 - (b) Criminal Justice Council, supported by the Office of Legislative and Intergovernmental Services; *and*
 - (c) ~~Kentucky Law Enforcement Council, supported by the Department of Criminal Justice Training; and~~
 - (d) Kentucky Parole Board, supported by the cabinet.
- (2) Except for the Kentucky Parole Board, which shall be attached to the cabinet for administrative and support services only, each agency specified in this section shall:
 - (a) Perform its duties as specified by law;
 - (b) Except as otherwise provided by law, be under the general direction and control of the secretary;
 - (c) Perform such other duties as may be assigned to the secretary; and
 - (d) Report to the secretary.

➔Section 3. The General Assembly hereby confirms Executive Order 2016-902, dated December 19, 2016, to the extent that it is not otherwise confirmed or superseded by this Act, which reorganizes the Justice and Public and Safety Cabinet Department of Criminal Justice Training by:

- (1) Establishing the Office of Kentucky Law Enforcement Council Support within the Justice and Public Safety Cabinet. The Office shall provide support on behalf of the Department of Criminal Justice Training to the Kentucky Law Enforcement Council. The Office shall be headed by an executive director appointed by the Secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the Secretary of the Justice and Public Safety Cabinet;
- (2) Establishing the Support and Records Section and the Testing Services Section within the newly created Office of Kentucky Law Enforcement Council Support;
- (3) Abolishing the Kentucky Law Enforcement Council Branch and its two support sections, the Supports and Records Section and the Testing Services Section and transferring all files, functions, personnel, and equipment to the newly created Office of Kentucky Law Enforcement Support, the Support and Records Section, Testing Services Section, and the Compliance and Carrying Concealed Deadly Weapons Section;
- (4) Abolishing the Training Support Division within the Department of Criminal Justice Training and transferring all files, funds, functions, personnel, and equipment to the newly created Office of Kentucky Law Enforcement Council Support;
- (5) Abolishing the Kentucky Community Preparedness Program Section within the Department of Criminal Justice Training;
- (6) Establishing the Compliance and Carrying Concealed Deadly Weapons Section within the Department of Criminal Justice Training to replace the Compliance and Monitoring Section of the Department of Criminal Justice Training;
- (7) Abolishing the Compliance and Monitoring Section of the Department of Criminal and Justice Training and transferring all files, functions, personnel, and equipment to the newly created Compliance and Carrying Concealed Deadly Weapons Section;
- (8) Establishing the Administrative Branch within the Department of Criminal Justice Training to include the following sections: Legal Training Section, oordination Section, Instructional Design Section; and the Records and Registration Section;
- (9) Abolishing the Instructional Design Section of the Training Operations division within the Department of Criminal Justice Training;
- (10) Establishing the Criminal Investigations Branch, to include the following sections: Special Topics Section, Investigative Techniques Section; and Leadership Section;
- (11) Abolishing the Basic Training Branch, including the General Studies Section, Evaluation Section, and DUI Enforcement Section;

- (12) Abolishing the Leadership Institute Branch, including the Leadership Section, Legal Training Section, and Louisville Section;
- (13) Abolishing the Skills Branch, including the Firearms Section, Vehicle Operations Section, Physical Training and Defensive Tactics Section, and Incident Command and Tactical Response Section;
- (14) Establishing the Special Operations Branch, including the Firearms Section, Patrol Tactics Section, and Physical Training Section;
- (15) Abolishing the Advanced Individual Training Branch, including the Advanced Telecommunications Section, Basic Telecommunications Section, Investigations Section, and Patrol and Traffic Section;
- (16) Establishing the Field Operations Branch, to include the Patrol Procedures Section, Traffic Operations Section, Telecommunications Section, and Louisville Field Section;
- (17) Abolishing the Records and Registration Section and Technical Services Section within the Information Systems Branch;
- (18) Establishing the Records and Registration Section within the Training Operations Divisions of the Administrative Branch;
- (19) Establishing the Technical Services Section within the Supply Branch, Administrative Division; and
- (20) Abolishing the Computer Systems Section from within the Information Systems Branch and transferring and distributing all services to the Facilities Section, Supply Branch Section, the Technical Services Section, Information Systems Management Branch, and the Commonwealth Office of Technology, Finance and Administration Cabinet.

Signed by Governor March 20, 2017.

CHAPTER 39

(HB 311)

AN ACT relating to employment at veterans' nursing homes.

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

➔Section 1. KRS 40.325 is amended to read as follows:

- (1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide long-term care to veterans who are residents of Kentucky.
- (2) There is created the Office of Kentucky Veterans' Centers within the Department of Veterans' Affairs. The office shall be headed by an executive director appointed pursuant to KRS 12.050. The office shall operate the Kentucky state veterans' nursing homes. The Department of Veterans' Affairs may promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs may seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.
- (4) ***The executive director of the Office of Kentucky Veterans' Centers, with the approval of the commissioner of the Department of Veterans' Affairs, may contract to hire licensed nurses in order to provide needed long-term care of veterans in residence at state veterans' nursing homes, and those contracts shall not be subject to KRS 45A.550 to 45A.554 or 45A.690 to 45A.725.***

➔Section 2. KRS 45A.690 is amended to read as follows:

- (1) As used in KRS 45A.690 to 45A.725:
 - (a) "Committee" means the Government Contract Review Committee of the Legislative Research Commission;

- (b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services. "Contracting body" includes the Tourism Development Finance Authority with regard to tax incentive agreements;
- (c) "Governmental emergency" means an unforeseen event or set of circumstances that creates an emergency condition as determined by the committee by promulgation of an administrative regulation;
- (d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth or entity qualified as nonprofit under 26 U.S.C. sec. 501(c)(3) not authorized under KRS Chapter 65 that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:
 - 1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;
 - 2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;
 - 3. Agreements between state agencies as required by federal or state law;
 - 4. Agreements between state agencies and state universities or colleges only when the subject of the agreement does not result in the use of an employee or employees of a state university or college by a state agency to fill a position or perform a duty that an employee or employees of state government could perform if hired, and agreements between state universities or colleges and employers of students in the Commonwealth work-study program sponsored by the Kentucky Higher Education Assistance Authority;
 - 5. Agreements involving child support collections and enforcement;
 - 6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health and Family Services, and transit authorities;
 - 7. Nonfinancial agreements;
 - 8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.60-140;
 - 9. Exchanges of confidential personal information between agencies;
 - 10. Agreements between state agencies and rural concentrated employment programs; or
 - 11. Any other agreement that the committee deems inappropriate for consideration;
- (e) "Motion picture or entertainment production" means the same as defined in KRS 148.542;
- (f) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one (1) contract;
- (g) "Personal service contract" means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon. It includes all price contracts for personal services between a governmental body or political subdivision of the Commonwealth and any other entity in any amount. This definition does not apply to:
 - 1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars (\$5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health and Family Services, individuals performing homemaker services, and transit authorities;
 3. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;
 4. Agreements between a state agency and rural concentrated employment programs;
 5. Agreements between the State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board;
 6. Agreements between the Department of Public Advocacy and attorneys for the representation of indigent clients who are entitled to representation under KRS Chapter 31 and who, by reason of conflict or otherwise, cannot be represented by the department, subject to quarterly reports of all such agreements to the committee;
 7. *Agreements between the Office of Kentucky Veterans' Centers and licensed nurses in order to provide critically needed long-term care to Kentucky veterans who are residents in state veterans' nursing homes pursuant to Section 1 of this Act; or*
 8. ~~7.~~ Any other contract that the committee deems inappropriate for consideration;
- (h) "Tax incentive agreement" means an agreement executed under KRS 148.546; and
- (i) "Tourism Development Finance Authority" means the authority established by KRS 148.850.
- (2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract or memorandum of agreement valid.

Signed by Governor March 20, 2017.

CHAPTER 40

(HB 312)

AN ACT relating to student financial assistance.

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

➔Section 1. KRS 164.7531 is amended to read as follows:

- (1) For purposes of this section, the terms "Best in Class for Teachers," "Best in Care for Nurses," and "Best in Law for Public Service Attorneys" mean the loan forgiveness programs established by the Higher Education Assistance Authority under its authority in KRS 164.744(2) and 164.748(7). The term "eligible program participant" means an individual who has an outstanding loan balance on a loan related to these loan forgiveness programs that were issued prior to June 30, 2008.
- (2) In the event that there are insufficient funds available from any source that can be used by the Kentucky Higher Education Assistance Authority to provide loan forgiveness for an eligible program participant, the authority shall negotiate an extended repayment schedule upon request by an eligible participant. The negotiated schedule shall be in compliance with federal loan requirements. Notwithstanding any other statute to the contrary, an eligible program participant in this repayment schedule shall not forfeit eligibility for other loans or scholarships that become available.
- (3) *The Best in Class for Teachers, Best in Care for Nurses, and Best in Law for Public Service Attorneys programs shall end by June 30, 2018. Borrowers with remaining balances shall be advised of federal loan forgiveness and alternative repayment plan options.*

➔Section 2. KRS 164.769 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.
- (2) For purposes of this section, the terms listed below shall have the following meanings:
 - (a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.
 - (b) **"Dual credit" has the same meaning as in KRS 158.007;**
 - (c) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to ~~initial~~ teacher certification.
 - ~~(d)(e)~~ "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.
 - ~~(e)(d)~~ "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.
 - ~~(f)(e)~~ "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.) **or serious and extended illness**, whose disability **or illness**, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.
 - ~~(g)(f)~~ "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.
 - ~~(h)(g)~~ "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.
- (3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.
- (4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study ~~on a full-time basis~~ at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution **in pursuit of initial teacher certification** ~~or who received teacher scholarships pursuant to this section prior to July 1, 1996~~. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students ~~seeking admission to a teacher education program~~.
- (5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars (\$12,500) for undergraduate students and seven thousand five hundred dollars (\$7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars (\$20,000). ~~and~~ The amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

- (6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study ~~on a full time basis, except that disbursements may be made to otherwise eligible students enrolled less than full time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers].~~
- (b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority *or teach dual credit coursework in a certified Kentucky high school* shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.
- (d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.
- (e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.
- (f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.
- (g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.
- (9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
- (10) The authority may execute appropriate contracts and promissory notes for administering this section.
- (11) Notwithstanding any other statute to the contrary, if available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships and, *until June 30, 2018*, to loan forgiveness for teachers who have outstanding loan balance eligibility for Best in Class loans issued prior to June 30, 2008. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be

ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

Signed by Governor March 20, 2017.

CHAPTER 41

(HB 329)

AN ACT relating to securities fraud.

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

➔Section 1. KRS 292.991 is amended to read as follows:

- (1) Any person who willfully violates any provision of ***KRS 292.330, 292.332, 292.340, 292.450, or 292.500***~~this chapter except KRS 292.440~~, or who willfully violates KRS 292.440 knowing the statement made to be false or misleading in any material respect, shall be guilty of a Class D felony.
- (2) ***Any person who willfully violates any provision of KRS 292.320 shall be guilty of:***
 - (a) ***If the value of the fraud is equal to or exceeds one million dollars (\$1,000,000), a Class B felony;***
 - (b) ***If the value of the fraud is equal to or exceeds ten thousand dollars (\$10,000) but is less than one million dollars (\$1,000,000), a Class C felony; or***
 - (c) ***If the value of the fraud is less than ten thousand dollars (\$10,000), a Class D Felony.***
- (3) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor; but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.
- ~~(4)(3)~~ The commissioner may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the Attorney General or the proper prosecuting authority, who may in his or her discretion, with or without such a reference, institute the appropriate criminal proceedings under this chapter.
- ~~(5)(4)~~ Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

Signed by Governor March 20, 2017.

CHAPTER 42

(HB 498)

AN ACT relating to the United States Department of Veterans Affairs.

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

➔Section 1. KRS 18A.150 is amended to read as follows:

- (1) Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have five (5) points added to the veteran's entrance examination score for classified positions. Any current member of the active military, military reserves, or National Guard shall be entitled to the same number of points.
- (2) Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, whom the ***United States Department of Veterans Affairs***~~Veterans Administration~~ or any branch of the

Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to the veteran's entrance examination score for a classified position.

- (3) The spouse of a person who has served in the active military, military reserves, or National Guard, was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies the veteran for positions along the general line of the veteran's usual occupation shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled veteran recovers.
- (4) Until remarriage, the surviving spouse of a person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable or general discharge separation.
- (5) A parent totally or partially dependent on a person who has served in the active military, military reserves, or National Guard and lost his or her life under honorable conditions while on active duty or active duty for training purposes or became permanently and totally disabled as a result of a service-connected disability shall have ten (10) preference points added to the parent's examination score for a classified position.
- (6) The preference points granted by subsections (1) to (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points may exceed one hundred (100).
- (7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.
- (b) 1. If the number of individuals identified in paragraph (a) of this subsection is less than five (5), the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.
2. If the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than five (5).

➔Section 2. KRS 40.010 is amended to read as follows:

As used in this chapter, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

- (1) "Administrator" means the adjutant general of the Commonwealth;
- (2) "Veteran" means a person who served in the active Armed Forces of the United States, during the Spanish American War, World War I, World War II, or the Korean conflict, for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial; or in service for which no allowance is made according to KRS 40.040), with some portion of service within the respective hereinafter prescribed dates, who is still in the Armed Forces, or was released, separated, discharged, or retired therefrom under honorable conditions;
- (3) "Duty in active Armed Forces" includes active duty, and any period of inactive duty training during which the individual concerned was disabled; and if a person in the active Armed Forces was released, separated, or discharged therefrom by reason of disability incurred in line of duty before serving as much as ninety (90) days, such person shall be qualified for entitlement to a bonus payment under this chapter, notwithstanding failure to remain in service for the minimum time otherwise prescribed;
- (4) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof on active duty;
- (5) "Qualified veteran" means a person answering to the specifications set forth in subsections (2) and (3), and who

- (a) Was a resident of the Commonwealth at the time of entry into active service in the Armed Forces and for at least six (6) months prior thereto; and
 - (b) Who has not received a bonus or like compensation from another state; and
 - (c) Who is not subject to the forfeiture provisions of this chapter;
- (6) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his or her place of residence at such time of entry, without regard to the place of enlistment, commission, or induction. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the ***United States Department of Veterans Affairs***~~Veterans Administration of the United States~~; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced, or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;
- (7) "Resident," in any context other than as in subsection (6), means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate;
- (8) "Beneficiary" means, in this order, widow, child or children (sharing equally), mother, father, and no other;
- (9) (a) "Widow" means a woman who was the wife of a veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);
- (b) The term "widow" also includes "widower" in the case of a man who was the husband of a female veteran at the time of her death;
- (10) "Child" means a person:
- (a) Who is under the age of eighteen (18); or
 - (b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or
 - (c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a child born in lawful wedlock; a legally adopted child; a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death; or a child born out of wedlock, but, as to the alleged father, only if acknowledged in writing signed by him, or if he had, before his death, been judicially decreed to be the father of such child;
- (11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (12) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (13) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;
- (14) "Outside the continental United States" means any place elsewhere than as defined in subsection (13);
- (15) "Spanish-American War":
- (a) Means the period beginning on April 21, 1898, and ending on July 4, 1902;
 - (b) Includes the Philippine Insurrection and the Boxer Rebellion; and
 - (c) In the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903;

- (16) "World War I":
- (a) Means the period beginning on April 6, 1917, and ending on November 11, 1918; and
 - (b) In the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920; and
 - (c) Any service between April 6, 1917, and July 1, 1921, if some part thereof was between April 6, 1917, and November 11, 1918, both dates being inclusive;
- (17) "World War II" means the period beginning December 7, 1941, and ending December 31, 1946;
- (18) "Korean conflict" means the period beginning on June 27, 1950, and ending January 31, 1955;
- (19) "Bonus" and "veterans' bonus" means the compensation authorized by this chapter;
- (20) "Bonus claim" means a claim or potential claim for a veterans' bonus;
- (21) "Claimant" means one who seeks to obtain payment of a bonus claim.

➔Section 3. KRS 40.080 is amended to read as follows:

- (1) All facts material to determining whether the claimant is entitled to receive a veterans' bonus shall be evidenced:
- (a) In any case where the same are shown in the official records of the Department of Defense, ***Department of Veterans Affairs*** ~~[Veterans Administration]~~, or any other department, bureau, or agency of the United States, by an authenticated copy of the record, or a certificate made by an authorized person in the department, bureau, or agency concerned, or by a written communication signed by such authorized person;
 - (b) In any case where the same are shown in any public record of the Commonwealth or of any public body in the Commonwealth, by a copy of the record, or the material part thereof, attested by the clerk or comparable officer;
 - (c) In any case where the same are shown in an instrument of writing, by tendering the instrument, or a photostat copy, or a copy authenticated in a manner acceptable to the administrator;
 - (d) Otherwise by affidavit.
- (2) No claimant shall be entitled to an oral hearing as a matter of right; but the administrator may in his discretion order a hearing in any case presenting unusual circumstances, or where it appears that documentary evidence of any material fact cannot reasonably be obtained, or where the claim cannot otherwise adequately be determined. If a hearing is ordered, it shall be conducted in accordance with KRS Chapter 13B. The administrator may investigate any matter which in his judgment is not adequately proven, or which shows or raises an inference of fraud, and may require submission of supplementary proof.

➔Section 4. KRS 40.400 is amended to read as follows:

As used in KRS 40.410 to 40.560, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

- (1) "Department of Military Affairs" means the office of the adjutant general, Commonwealth of Kentucky;
- (2) "Administrator" means the individual designated by the adjutant general to carry out the responsibilities of KRS 40.410 to 40.560;
- (3) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof on active duty, other than for training, and shall not include the merchant marine;
- (4) "Qualified veteran" means any person whose period of active duty service meets the criteria set forth in subsection (5) or (6) of this section;
- (5) "Qualifying Vietnam service" means service by any person who:
 - (a) Served as a member of the Armed Forces of the United States in Vietnam or its contiguous waters or airspace, as defined in United States Department of Defense Directive 1348.15, October 1, 1965, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 1, 1958, through May 15, 1975; or served as a member of the Armed

Forces of the United States in the Dominican Republic, Congo, Thailand, Laos, or Cambodia, or participated in aerial missions in the airspace over same, for a period of at least thirty (30) days, unless such period was lessened as a result of death or medical evacuation, during the period July 3, 1965, through May 15, 1975; or served as a member of the Armed Forces of the United States and was awarded, or was eligible for award of, the Vietnam Service Medal established by United States Department of Defense Directive 1348.15, October 1, 1965;

- (b) Was released, separated, or discharged from the Armed Forces under other than dishonorable conditions or who is presently serving on active duty;
 - (c) Was a resident of the Commonwealth at the time of entry into active service in the Armed Forces and for at least six (6) months prior thereto; and
 - (d) Has not received a similar bonus for such service from any other state;
- (6) "Qualifying Vietnam era service" means service by any person who:
- (a) Served in the Armed Forces of the United States on active duty, including service in a reserve component thereof other than for training, for at least ninety (90) consecutive days, exclusive of time lost as AWOL or in penal confinement, during the period August 5, 1964, to May 15, 1975, but whose service was in a location not included in subsection (5)(a) of this section;
 - (b) Was released, separated, or discharged from the Armed Forces under other than dishonorable conditions or is still serving on active duty;
 - (c) Was a resident of the Commonwealth at the time of his entry into active service in the Armed Forces and for at least six (6) months prior thereto; and
 - (d) Has not received a similar bonus for such service from any other state;
- (7) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at the time of entry. Conclusive and exclusive evidence of the giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the **United States Department of Veterans Affairs** ~~Veterans Administration of the United States~~; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that it has been lost, misplaced, destroyed, or was in error, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;
- (8) "Resident," in any context other than as in subsections (5) and (6) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to the regulations the administrator promulgates;
- (9) "Beneficiary" means the following persons who were alive at the time of application, in this order: widow, if none to the child or children equally, if none to the mother and father equally, but if the father is dead, the mother, if living, shall take the whole amount; but if the mother is dead, the father, if living, shall take the whole amount;
- (10) (a) "Widow" means a woman who was the wife of a qualified veteran at the time of his death;
- (b) The term "widow" also includes "widower" in the case of a man who was the husband of a female qualified veteran at the time of her death;
- (11) "Child" means a person:
- (a) Who is under the age of eighteen (18) at the time application is made or who was under the age of eighteen (18) at the time of the veteran's death;
 - (b) Who, before attaining the age of eighteen (18), became permanently incapable of self-support; or
 - (c) Who, after attaining the age of eighteen (18) and until completion of education or training, but not after attaining the age of twenty-three (23), is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a stepchild who is a member of a qualified veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

- (12) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (13) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (14) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;
- (15) "Outside the continental United States" means any place elsewhere than as defined in subsection (14) of this section;
- (16) "Bonus" and "Vietnam veterans' bonus" mean the compensation authorized by KRS 40.410 to 40.560;
- (17) "Bonus claim" means a claim or potential claim for a Vietnam veterans' bonus; and
- (18) "Claimant" means one who seeks to obtain payment of a bonus claim.

➔Section 5. KRS 148.0211 is amended to read as follows:

- (1) Any veteran who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from camping fees in parks or campgrounds owned or operated by the Commonwealth of Kentucky.
- (2) To claim the exemption provided for by subsection (1) of this section, a veteran shall forward:
 - (a) A copy of his separation form from military service; or
 - (b) A letter from one (1) of the military forces or the *United States Department of Veterans Affairs*~~[Veterans Administration]~~; and
 - (c) Written proof of residence to the Department of Parks. The department shall mail a card to the veteran certifying that he is exempt from the fees specified in subsection (1) of this section.

➔Section 6. KRS 148.0212 is amended to read as follows:

- (1) A Kentucky resident shall be exempt from the relevant overnight accommodations rate at any Kentucky state park if he or she is:
 - (a) A permanently and totally disabled veteran with a one hundred percent (100%) service-connected disability, regardless of wartime service; or
 - (b) A permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty training, or inactive duty training.
- (2) To be entitled to the exemption under this section, a veteran must be a Kentucky resident and must be rated one hundred percent (100%) permanently and totally disabled, as the result of an injury suffered while on active duty, by the *United States Department of Veterans Affairs*~~[Administration]~~ or the Department of Defense. Members of the Kentucky National Guard or Reserve Component must be rated one hundred percent (100%) permanently and totally disabled as provided in KRS Chapter 342.
- (3) The exemption shall be made available to qualified Kentucky residents as described in this section for a maximum of three (3) overnight stays per calendar year at any Kentucky state park. Each stay shall be limited to a maximum of three (3) days, subject to availability. During peak periods, as defined elsewhere in this section, stays are to be taken during the Sunday through Thursday five (5) day period only. Outside of peak periods, stays are available at any time.
- (4) The Department of Parks shall promulgate any administrative regulations necessary to carry out this section, including but not limited to:
 - (a) Defining peak periods, which shall be no longer than the days between Memorial Day and Labor Day and the month of October;
 - (b) Establishing the ten (10) day window during which reservations by residents under this section may be made;

- (c) Establishing those accommodations which qualify for the exemption; and
 - (d) Delineating the types of proof acceptable for establishing eligibility for persons entitled to the exemption provided for in this section, while working in conjunction with the Kentucky Department of Veterans' Affairs.
- (5) The exemption described in this section shall not limit the benefits of a qualified Kentucky resident if he or she is also eligible for benefits under KRS 148.0211.

➔Section 7. KRS 164.505 is amended to read as follows:

- (1) A person shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institution if the person's deceased parent or stepparent, or if the person's deceased spouse if the person has not remarried, was a resident of the Commonwealth of Kentucky upon joining the Kentucky National Guard or upon entering military service and:
- (a) Was killed while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations, or was killed by hostile fire while on active duty in the Armed Forces of the United States or the Kentucky National Guard; or
 - (b) Died as a result of a service-connected disability acquired while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard or Reserve Component, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs or the ***United States Department of Veterans Affairs***~~[Veterans Administration]~~ Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

➔Section 8. KRS 164.507 is amended to read as follows:

- (1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
- (a)
 - 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or
 - 2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
 - 3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
 - (b)
 - 1. Was a resident of the Commonwealth of Kentucky at the time of death; or
 - 2. Was married to a resident of Kentucky at the time of death; and
 - 3. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the

United States Department of Veterans Affairs~~[Veterans Administration]~~ Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

➔Section 9. KRS 164.512 is amended to read as follows:

- (1) The child of a veteran, regardless of age, who has acquired a disability as a direct result of the veteran's service shall be eligible to receive a waiver of tuition upon admission to any state-supported university, college, or vocational training institute.
- (2) To be entitled to benefits under this section, the child claiming benefits must have acquired a disability determined by the United States *Department of Veterans Affairs*~~[Veterans Administration]~~ as compensable.
- (3) The parent-child relationship must be shown by birth certificate, marriage certificate, or other documentary evidence.
- (4) To entitle a child to benefit under this section the member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or the veteran must have served on active duty with the Armed Forces of the United States, and the discharge must have been under honorable conditions. The veteran must be a resident or, if deceased, must have been a resident of the Commonwealth of Kentucky.

➔Section 10. KRS 164.515 is amended to read as follows:

- (1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States *Department of Veterans Affairs*~~[Veterans Administration]~~ or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, *United States Department of Veterans Affairs*~~[Veterans Administration-Records]~~, or the Department of Defense of the United States.
- (3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.
- (4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.
- (5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-six (26) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

- (6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

➔Section 11. KRS 189.459 is amended to read as follows:

- (1) When a motor vehicle which is being operated by or for the benefit of the person with a disability who is in the motor vehicle at the time it is being operated is displaying an auto registration plate as provided in KRS 186.041 or 186.042 or 186.0425, an out-of-state or out-of-country registration plate for a person with a disability bearing the international symbol of access, a parking placard issued by any ***United States Department of Veterans Affairs***~~Veterans Administration~~ hospital, or an accessible parking placard issued to a person with a disability as prescribed in KRS 189.456 or 189.458 or by another state or foreign country when the accessible parking placard meets the basic requirements of KRS 189.456 or 189.458, the vehicle may be parked in a parking place designated as accessible to and for the use of a person with a disability.
- (2) When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a parking area designated as accessible to and for the use of a person with a disability in a motor vehicle not displaying either an auto registration plate as provided in KRS 186.041, 186.042, 186.0425, or an out-of-state registration plate designated for the use of a person with a disability on the rear of the vehicle unless he displays on the dashboard of his motor vehicle an accessible parking placard issued to a person with a disability. No person shall park a vehicle displaying an accessible parking placard in a parking area designated as accessible to and for the use of a person with a disability when the person with a disability is not in the motor vehicle.
- (3) No person shall make, issue, possess, or knowingly use any imitation, counterfeit, or transferable placard or license plate for a person with a disability.

➔Section 12. KRS 205.935 is amended to read as follows:

As used in KRS 205.940:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Representative payee" means a person appointed by the Social Security Administration, ***United States Department of Veterans Affairs***~~Veterans Administration~~, or other nonprofit social service agency to provide financial management services to persons receiving Social Security Administration, ***Department of Veterans Affairs***~~Veterans Administration~~, or other government benefits, who are incapable of making or executing responsible financial decisions.

➔Section 13. KRS 216B.020 is amended to read as follows:

- (1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; licensed residential crisis stabilization units, which may be part of a licensed psychiatric hospital; licensed free-standing residential substance use disorder treatment programs with sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral health treatment, but not including partial hospitalization programs; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including but not limited to wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; nursing home beds that shall be exclusively limited to on-campus residents of a certified continuing care retirement community; home health services provided by a continuing care retirement community to its on-campus residents; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital; residential hospice facilities established by licensed hospice programs; or the following health services provided on site in an existing health facility when the cost is less than six hundred

thousand dollars (\$600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

- (2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:
 - (a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts, except any physician's office that meets the criteria set forth in KRS 216B.015(5) or that meets the definition of an ambulatory surgical center as set out in KRS 216B.015;
 - (b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(5), or unless the physician's office is also an abortion facility as defined in KRS 216B.015, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;
 - (c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;
 - (d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States *Department of Veterans Affairs*~~Veterans Administration~~ for boarding services;
 - (e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and
 - (f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.
- (3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.
- (4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.
- (5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.
- (6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.
- (7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

- (8) Notwithstanding any other provision of law, a continuing care retirement community's nursing home beds shall not be certified as Medicaid eligible unless a certificate of need has been issued authorizing applications for Medicaid certification. The provisions of subsection (3) of this section notwithstanding, a continuing care retirement community shall not change the level of care licensure status of its beds without first obtaining a certificate of need.

➔Section 14. KRS 304.17A-136 is amended to read as follows:

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

(a) "Cancer clinical trial" means a clinical trial that:

1. Is approved by:
 - a. The National Institutes of Health, or any institutional review board recognized by the National Institutes of Health;
 - b. The United States Food and Drug Administration;
 - c. The United States Department of Defense; or
 - d. The United States *Department of Veterans Affairs* ~~Veterans Administration~~; and
2. Does one (1) of the following:
 - a. Tests how to administer a health care service, item, or drug for the treatment of cancer;
 - b. Tests responses to a health care service, item, or drug for the treatment of cancer;
 - c. Compares the effectiveness of health care services, items, or drugs for the treatment of cancer with that of other health care services, items, or drugs for the treatment of cancer; or
 - d. Studies new uses of health care services, items, or drugs for the treatment of cancer; and

(b) "Routine patient healthcare costs" means all healthcare services, items, and drugs for the treatment of cancer, except for the following:

1. The health care service, item, or investigational drug that is the subject of the cancer clinical trial;
2. Any treatment modality outside the usual and customary standard of care required to administer or support the healthcare service, item, or investigational drug that is the subject of the cancer clinical trial;
3. Any healthcare service, item, or drug provided solely to satisfy data collection and analysis needs that are not used in the direct clinical management of the patient;
4. An investigational drug or device that has not been approved for market by the United States Food and Drug Administration;
5. Transportation, lodging, food, or other expenses for the patient or a family member or companion of the patient that are associated with travel to or from a facility providing the cancer clinical trial;
6. Any services, items, or drugs provided by the cancer clinical trial sponsors free of charge for any new patient; or
7. Any services, items, or drugs that are eligible for reimbursement by a person other than the insurer, including the sponsor of the clinical trial.

- (2) A health benefit plan shall not exclude coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare costs had they not been incurred in a cancer clinical trial.

- (3) The coverage that may not be excluded under this section shall be subject to all terms, conditions, restrictions, exclusions, and limitations that apply to any other coverage under the policy, plan, or contract, including the treatment under the policy, plan, or contract of services performed by participating and nonparticipating providers.

- (4) (a) Nothing in this section requires a policy, plan, or contract to offer cancer clinical trial services by a participating provider.
- (b) Nothing in this section prohibits a policy, plan, or contract from offering cancer clinical trial services by a participating provider.
- (c) Nothing in this section requires services that are performed in a cancer clinical trial by a nonparticipating provider of a policy, plan, or contract to be reimbursed at the same rate as those performed by a participating provider of the policy, plan, or contract.
- (5) Nothing in this section shall be construed as imposing a new health benefit mandate.

➔Section 15. KRS 310.070 is amended to read as follows:

- (1) It shall be unlawful for any person to engage in the practice of dietetics or nutrition, to act or to represent himself to be a dietitian or a nutritionist, or to use such titles as "dietitian," "nutritionist," "licensed dietitian," "certified nutritionist," or such letters as "L.D.," "C.N.," or any word, letters, or title indicating or implying that the person is a dietitian or nutritionist, unless that person holds a license or certificate issued by the board.
- (2) Nothing in this chapter shall be construed to prevent or restrict:
 - (a) A person licensed in this state from carrying out any therapy or practice for which he is duly licensed, including but not limited to physicians, osteopaths, podiatrists, chiropractors, dentists, and nurses;
 - (b) A student enrolled in an approved academic program in dietetics, if the practice constitutes a part of a course of study under the supervision of a licensed dietitian or certified nutritionist. The student shall be designated by title clearly indicating his status as a student or trainee;
 - (c) A dietitian serving in the Armed Forces, the Public Health Service of the United States, or employed by the ***United States Department of Veterans Affairs***~~Veterans Administration~~ from engaging in the practice of dietetics, if that practice is related to his service or employment;
 - (d) Persons performing the activities and services of a nutrition educator in the employment of a federal, state, county, or municipal agency or in an elementary or secondary school or accredited degree granting educational institution, if the activities and services are part of a salaried position;
 - (e) Federal, state, county, or municipal employees involved with nutrition related programs, including but not limited to, the cooperative extension services, child nutrition programs, and Project Headstart from engaging in the practice of dietetics or nutrition within the discharge of their official duties. Any person engaging in the practice of dietetics or nutrition outside the scope of his official duties shall be licensed as provided in this chapter; or
 - (f) Persons employed in a hospital or nursing home from performing dietary services under the supervision of a licensed dietitian.
- (3) The provisions of this chapter shall not apply to a person who owns a health food store or who manufactures, distributes, or sells health foods, dietary supplements, or vitamins nor shall the provisions of this chapter be construed to affect any other person who provides nutritional or dietary advice or sells nutritional or dietary supplements if the person does not use the title dietitian, licensed dietitian, or certified nutritionist.

➔Section 16. KRS 311.390 is amended to read as follows:

KRS 311.380 to 311.510, shall not apply to:

- (1) Any person manufacturing or selling, as merchandise in a duly established mercantile establishment, shoes or appliances designed and intended to equalize pressure on different parts of the foot, or the sale by any licensed druggist of plasters, salves, and lotions for corns, warts, callosities and bunions, provided such persons shall make no diagnosis or recommendation and shall prescribe no remedy or treatment;
- (2) Or interfere in any manner with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means, nor with any individual's selection of any such person;
- (3) Physicians licensed by the State Board of Medical Examiners of this state;
- (4) Surgeons of the United States Army, Navy, United States ***Department of Veterans Affairs***~~Veterans Administration~~, and United States Public Health Service, when in actual performance of their official duties.

➔Section 17. KRS 311.560 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.
- (2) The provisions of subsection (1) of this section shall not apply to:
 - (a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States *Department of Veterans Affairs*~~Veterans Administration~~, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;
 - (b)
 1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or
 2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;
 - (c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board. A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620;
 - (d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician; or
 - (e) Persons who are nonresidents of Kentucky and licensed to practice medicine or osteopathy in their states of residence and are providing medical services as a charitable health-care provider in Kentucky through a nonprofit, all-volunteer sponsoring organization as provided for under KRS 216.940 to 216.945, after confirming to the board that their licenses are currently in good standing in their states of residence and having been issued a written waiver by the board to provide these services during the specific period stated in the written waiver.

➔Section 18. KRS 367.380 is amended to read as follows:

As used in KRS 367.380 to 367.389, unless the context requires otherwise:

- (1) "Advance fee" means any consideration which is assessed or collected, prior to the closing of a loan, by a loan broker.
- (2) "Affiliate" means any person who directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with another person.
- (3) "Borrower" means a person obtaining or desiring to obtain a loan of money, a credit card, or a line of credit;
- (4) (a) "Loan broker" means any person, not exempt under paragraph (b), who:
 1. For or in expectation of consideration arranges, attempts to arrange, or offers to fund a loan of money, a credit card, or a line of credit;

2. For or in expectation of consideration assists, or advises a borrower in obtaining or attempting to obtain a loan of money, a credit card, a line of credit, or related guarantee, enhancement, or collateral of any kind or nature;
 3. Acts for or on behalf of a loan broker for the purpose of soliciting borrowers; or
 4. Holds himself out as a loan broker.
- (b) The following persons shall not be considered loan brokers under paragraph (a):
1. A bank; savings and loan association; trust company; credit union; consumer loan company; investment company; industrial loan company; securities broker-dealer, agent, or investment adviser; real estate broker or sales associate; attorney; Federal Housing Administration or ***United States Department of Veterans Affairs***~~Veterans Administration~~ approved lender; credit card company; mortgage loan company; mortgage loan broker; public utility; insurance company; or insurance agent, solicitor, consultant, motor vehicle manufacturer, or motor vehicle dealer, if it is licensed by and subject to regulation or supervision of an agency, commission, or department of the United States or the Commonwealth, and if it is acting within the scope of its license, permit, or registration or with express written authority from the regulatory or supervising agency. Subsidiaries of licensed or chartered consumer loan companies, banks, or savings and loan associations are not loan brokers.
 2. A person extending or arranging credit, or offering to extend or arrange credit, to a partnership or corporation exclusively for commercial or business purposes;
 3. A depository financial institution chartered or licensed by an agency, commission, or department of another state, if the funds on deposit with the institution are insured by the Federal Deposit Insurance Corporation;
 4. An affiliate of a person listed in subparagraph 2; or
 5. A bona fide seller or lessor of goods, services, or interests in real estate in a transaction in which the seller or lessor extends, arranges, or offers to extend or arrange credit that is to be used exclusively for financing the purchase or lease or for services performed by an independent third party directly related to the purchase or lease. A transaction shall not be exempt under this subparagraph if the purchaser or lessee receives, or is to receive, a cash advance or consolidation loan in addition to the financing;
- (5) "Principal" means any officer, director, partner, joint venturer, branch manager, or other person with similar managerial or supervisory responsibilities for a loan broker.
- ➔Section 19. KRS 386.030 is amended to read as follows:
- (1) Banks, trust companies, insurance companies, savings and loan associations, executors, administrators, trustees or others acting in a fiduciary capacity, trust funds, and other financial institutions, originating mortgagee institutions, and other institutions approved as mortgagees and meeting otherwise the requirements of the secretary of housing and urban development, the Federal Housing Administration or ***Department of Veterans Affairs***~~Veterans Administration~~ to act as mortgagees under that agency's approval program, subject to the laws of this state, may:
- (a) Make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for credit insurance or guaranty by the secretary of housing and urban development, the federal housing administrator or administrator of veterans' affairs, and may obtain such insurance, guaranty or other approval;
 - (b) Make such loans secured by real property or leasehold, as the secretary of housing and urban development, the federal housing administrator or administrator of veterans' affairs insures or issues a guaranty or makes a commitment to insure, or guaranty, and may obtain such insurance, or guaranty;
 - (c) Invest their funds, eligible for investment, in notes or bonds secured by mortgage or trust deed insured by the secretary of housing and urban development, the federal housing administrator or administrator of veterans' affairs, and in debentures issued by the secretary of housing and urban development, the federal housing administrator or administrator of veterans' affairs, and also in securities issued by national mortgage associations; and

- (d) Invest their funds in real estate mortgage notes, bonds and other interest-bearing or dividend-paying securities (including securities of any open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940) which would be regarded by prudent businessmen as a safe investment. The fact that the persons listed in this subsection are providing services to the foregoing investment company or trust as investment advisor, custodian, transfer agent, registrar or otherwise shall not preclude such persons from investing in the securities of such investment company or trust.
- (2) This state and any of its political subdivisions, or any agency or instrumentality thereof may invest its funds and the moneys in its custody or possession, eligible for investment, in notes or bonds described in paragraph (c) of subsection (1) of this section.
- (3) No law of this state requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of the security, or prescribing or limiting interest rates upon loans or investments, or limiting investments of capital or deposits, or prescribing or limiting the period for which loans or investments may be made, shall apply to loans or investments made pursuant to this section.

➔Section 20. KRS 388.190 is amended to read as follows:

As used in this chapter:

- (1) The term "person" includes a partnership, corporation or an association.
- (2) The term "Veterans ~~Affairs~~~~Administration~~" means the *United States Department of Veterans Affairs*~~Veterans Administration~~, its predecessors or successors.
- (3) The terms "estate" and "income" shall include only moneys received by the guardian or conservator from the Veterans ~~Affairs~~~~Administration~~, all earnings, interest and profits derived therefrom and all property acquired therewith.
- (4) The term "benefits" shall mean all moneys paid or payable by the United States through the Veterans ~~Affairs~~~~Administration~~.
- (5) The term "administrator" means the administrator of veterans affairs or his successor.
- (6) The term "ward" means a beneficiary of the Veterans ~~Affairs~~~~Administration~~.
- (7) The term "guardian" as used herein shall mean any person acting as a fiduciary for a person adjudged mentally disabled.
- (8) The term "court" means the District Court of the county of the beneficiary's residence.

➔Section 21. KRS 388.200 is amended to read as follows:

The administrator of veterans affairs, or his successor, is and shall be a party in interest in any proceeding brought under any law of this state for the appointment of a guardian or conservator for any beneficiary, who is a minor or who has been adjudged mentally disabled, or the Veterans ~~Affairs~~~~Administration~~ on whose account benefits have been paid or are payable by said Veterans ~~Affairs~~~~Administration~~, and the said administrator or his successor is and shall be an interested party in any court proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the Veterans ~~Affairs~~~~Administration~~, its predecessor or successor. Written notice shall be given by certified mail, return receipt requested, unless waived in writing, to the office of the Veterans ~~Affairs~~~~Administration~~ having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary of the Veterans ~~Affairs~~~~Administration~~. Said notice shall be deposited in the mails not less than fifteen (15) days prior to the date of such hearing or other proceedings.

➔Section 22. KRS 388.210 is amended to read as follows:

Whenever, pursuant to any law of the United States or regulation of the *United States Department of Veterans Affairs*~~Veterans Administration~~, it is necessary, prior to payment of benefits, that a guardian or conservator be appointed for a minor or a mentally disabled beneficiary of the Veterans ~~Affairs~~~~Administration~~ such appointment shall be made in the manner hereinafter provided.

➔Section 23. KRS 388.220 is amended to read as follows:

- (1) Except as hereinafter provided, it shall be unlawful for any person to accept appointment as guardian or conservator of any minor or mentally disabled beneficiary of the Veterans ~~Affairs~~~~Administration~~ if such

proposed guardian or conservator shall at that time be acting as guardian or conservator for five (5) wards. In any case, upon presentation of a petition by an attorney of the Veterans ~~Affairs~~~~Administration~~ under this section alleging that a guardian or conservator is acting in a fiduciary capacity for more than five (5) wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian or conservator and shall discharge such guardian or conservator in said case.

- (2) The limitations of this section shall not apply where the guardian or conservator is a bank or trust company. An individual may be guardian or conservator of more than five (5) wards if they are all members of the same family.

➔Section 24. KRS 388.230 is amended to read as follows:

- (1) A petition for the appointment of a guardian or conservator for any minor or mentally disabled beneficiary of the Veterans ~~Affairs~~~~Administration~~ may be filed in the court having jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file such a petition within thirty (30) days after mailing of notice by the Veterans ~~Affairs~~~~Administration~~ to the last known address of such person indicating the necessity for the same, a petition for such appointment may be filed by or on behalf of any responsible person residing in this state.
- (2) The petition for appointment shall set forth the name, age, place of residence of such beneficiary, the name and place of residence of the nearest relative, if known, and the fact that such beneficiary is entitled to receive benefits payable by or through the Veterans ~~Affairs~~~~Administration~~ and shall set forth the amount of moneys then due and the amount of probable future payments.
- (3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of such beneficiary, and the name, age, relationship, if any, occupation and address of the person proposed for appointment as guardian or conservator. Notwithstanding any provision of existing law as to priority, the court may appoint a capable individual, bank or trust company, as guardian or conservator, if the person entitled to priority fails to apply, or if after hearing the court determines it is for the best interest of such beneficiary to appoint another.
- (4) In the case of a mentally disabled beneficiary, the petition shall show that such beneficiary has been rated incompetent by the Veterans ~~Affairs~~~~Administration~~ on examination in accordance with the laws and regulations governing the Veterans ~~Affairs~~~~Administration~~.

➔Section 25. KRS 388.240 is amended to read as follows:

Where a petition is filed for the appointment of a guardian for a minor beneficiary of the Veterans ~~Affairs~~~~Administration~~, a certificate of the administrator of Veterans Affairs, or his authorized representative, accompanying such petition setting forth the age of such minor as shown by the records of the Veterans ~~Affairs~~~~Administration~~ and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the Veterans ~~Affairs~~~~Administration~~, shall be prima facie evidence of the necessity for such appointment.

➔Section 26. KRS 388.250 is amended to read as follows:

Notwithstanding the provisions of existing law for adjudication of mental disability and appointment of a guardian or conservator upon the inquest of a jury, where a petition is filed for the appointment of a guardian or conservator for a mentally disabled beneficiary of the Veterans ~~Affairs~~~~Administration~~ under the provisions of this chapter, who is found within this state, whether or not a resident thereof, a certificate of the administrator of Veterans Affairs or his duly authorized representative, accompanying such petition setting forth the fact that such beneficiary has been rated incompetent by the Veterans ~~Affairs~~~~Administration~~ on examination in accordance with the laws and regulations governing such Veterans ~~Affairs~~~~Administration~~, and that the appointment of a guardian or conservator is a condition precedent to the payment of any moneys due each beneficiary by the Veterans ~~Affairs~~~~Administration~~, shall be prima facie evidence of the necessity for such appointment. Provided, however, that some member of the bar shall be appointed by the court to represent and protect the interests and rights of such mentally disabled beneficiary as provided under existing law, and further that the right of any such mentally disabled beneficiary or any person interested in such beneficiary to demand a trial by jury shall not be denied.

➔Section 27. KRS 388.280 is amended to read as follows:

- (1) Every guardian or conservator who shall receive on account of his ward any moneys from the Veterans ~~Affairs~~~~Administration~~, shall file with the court biennially, on the anniversary date of the appointment, in

addition to such other accounts as may be required by the court, a full, true and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. The guardian or conservator, at the time of filing his account shall exhibit all securities or investments described therein to an officer of the bank or other depository wherein said securities are held for safekeeping, or to an authorized representative of the corporation which is surety on his bond, or to the clerk or deputy clerk of a court of record in this state or to any other reputable person designated by the court upon request of the guardian or conservator or other interested party, who shall certify in writing that he has examined such securities or investments and identified them with those described in the account; provided, that if such depository is the guardian or conservator, such certifying officer shall be an officer other than the officer verifying the account, or the guardian or conservator may exhibit such securities or investments to the judge of the court who shall endorse on the account and copy thereof a statement that the securities or investments shown therein as on hand were in fact exhibited to him and that those exhibited to him were the same as those shown in the account. Such certificate, and the certificate of an official of the bank in which is deposited any cash balance showing the amount on deposit shall be filed by the guardian or conservator with his account. A certified copy of each such account and a signed duplicate of such certificates filed with the court shall be sent by the guardian or conservator to the office of the Veterans *Affairs*~~[Administration]~~ having jurisdiction over the area in which such court is located. A duplicate signed copy, or certified copy of any petition, motion or other pleading which is filed in the guardianship proceedings, or in any proceedings for the purpose of removing the disability or minority or of mental incompetency, shall be furnished by the person filing the same, to the office of the Veterans *Affairs*~~[Administration]~~ concerned. The court, unless hearing be waived in writing by the chief attorney of the Veterans *Affairs*~~[Administration]~~, shall fix a time and place for the hearing on such account, petition, or other pleading, not less than fifteen (15) days nor more than thirty (30) days from the date of filing same unless a different available date be stipulated in writing and written notice of the time and place of such hearing shall be given by the court to the aforesaid Veterans *Affairs*~~[Administration]~~ office not less than fifteen (15) days prior to the date fixed for the hearing. Notice of such hearing shall in like manner be given to the guardian or conservator and to any others entitled to notice.

- (2) The clerk shall mail said Veterans *Affairs*~~[Administration]~~ office a copy of each order entered in any guardianship proceeding wherein the Veterans *Affairs*~~[Administration]~~ is an interested party.

➔Section 28. KRS 388.290 is amended to read as follows:

If any guardian or conservator shall fail to file with the court or the Veterans *Affairs*~~[Administration]~~, as required by this chapter, any account of the benefits received by him from the Veterans *Affairs*~~[Administration]~~ on account of his ward within thirty (30) days after such account is due, or shall fail to furnish the Veterans *Affairs*~~[Administration]~~ a true copy of any account or of any petition or pleading as required by this chapter, such failure shall be grounds for removal.

➔Section 29. KRS 388.300 is amended to read as follows:

Compensation payable to guardians or conservators shall not exceed five percent (5%) of the income of the ward during any year, but in no event shall the amount of such compensation be less than fifty dollars (\$50) for each year. In the event of extraordinary services rendered by any guardian or conservator, the court may, upon petition and after notice to the Veterans *Affairs*~~[Administration]~~ and hearing thereon, authorize reasonable additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing shall be given to the proper office of the Veterans *Affairs*~~[Administration]~~ in the manner provided in KRS 388.280. No commission or compensation shall be allowed on the estate received from a preceding guardian.

➔Section 30. KRS 388.320 is amended to read as follows:

A guardian or conservator shall not apply any portion of the estate of his ward for the support and maintenance of any person other than said ward, his minor children and his spouse (if the spouse and the ward be living together) except upon petition to and prior order of the court after a hearing, notice of which has been given the proper office of the Veterans *Affairs*~~[Administration]~~ in the manner and within the time provided in KRS 388.280.

➔Section 31. KRS 388.330 is amended to read as follows:

Whenever a copy of any public record is required by the Veterans *Affairs*~~[Administration]~~ to be used in determining the eligibility of any person to participate in benefits made available by such Veterans *Affairs*~~[Administration]~~, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the authorized representative of such Veterans *Affairs*~~[Administration]~~ with a certified copy of such record.

➔Section 32. KRS 388.340 is amended to read as follows:

Upon filing a petition, or certificate, showing that a minor ward has attained majority, or that a mentally disabled ward has been rated competent upon examination in accordance with the law, the court may order the guardian or conservator to file a final account; and, upon hearing, after notice to the former minor or mentally disabled person and to the Veterans ~~Affairs~~~~Administration~~ in the manner and within the time provided by KRS 388.280, and upon approval of the final account, the court may so adjudge and discharge the guardian or conservator and release the sureties from liability upon delivery to the former ward of the assets due him by the former guardian or conservator, and may make such further order as may be lawful.

➔Section 33. KRS 388.350 is amended to read as follows:

- (1) Whenever in a proceeding for the trial and commitment of any person who appears to be mentally disabled it is determined that such person is either an individual with an intellectual disability, an epileptic, or a mentally ill person and ought to be committed for safekeeping or treatment and it appears that such person is eligible for care or treatment by the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government, the court of the county in which such person is found, having jurisdiction in such matters, upon receipt of a certificate from the Veterans ~~Affairs~~~~Administration~~ or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government for care or treatment. Thereafter, such person, upon admission to any such facility, shall be subject to the rules and regulations of the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government. The chief officer of any such facility or institution to which such person is committed under the provisions of this section shall be vested with the same powers as are exercised by superintendents of state hospitals for mental diseases within this state with respect to the retention, transfer, parole or discharge of the person so committed. Notice of such pending commitment proceedings shall be furnished the person whose commitment is sought and his right to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government, for care or treatment, shall have the same force and effect as to such person while in this state as in the state in which is situated the court entering such judgment or making such order.
- (2) Upon receipt of a certificate of the Veterans ~~Affairs~~~~Administration~~ or such other agency of the United States government that facilities are available for the care or treatment of any person heretofore committed to any hospital for the mentally ill or other institution in this state for the care of persons similarly disabled and that such person is eligible for such care or treatment, the superintendent of any such hospital or institution in this state is hereby authorized to cause the transfer of any such person to the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government for care or treatment. Upon effecting any such transfer, the committing court shall be notified thereof by the transferring agency; provided, however, that no person shall be transferred if he be confined pursuant to conviction of any crime or misdemeanor, or if he shall have been acquitted of any such charge solely on the ground of insanity, unless prior to such transfer the court originally committing such person shall enter an order for such transfer after appropriate motion and hearing.
- (3) Any person transferred as provided in this section shall be deemed to be committed to the Veterans ~~Affairs~~~~Administration~~ or other agency of the United States government pursuant to the original commitment the same as if he had been originally so committed.

➔Section 34. KRS 388.360 is amended to read as follows:

This chapter shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the Veterans ~~Affairs~~~~Administration~~.

➔Section 35. KRS 388.380 is amended to read as follows:

All laws or parts of laws relating to beneficiaries of the Veterans ~~Affairs~~~~Administration~~ inconsistent with this chapter are hereby repealed. Except where inconsistent with this chapter, the general guardianship laws of this state and the laws establishing the practice in such matters including rights of appeal, shall be applicable to such beneficiaries and their estates.

➔Section 36. KRS 388.390 is amended to read as follows:

The provisions of this chapter relating to surety bonds and the administration of estates of Veterans ~~Affairs~~~~Administration~~ beneficiaries under guardianship shall apply to all such estates heretofore or hereafter created under the general laws of this state to the extent that such estates have assets derived from benefits paid by the Veterans ~~Affairs~~~~Administration~~ or receive such benefits in the future.

Signed by Governor March 20, 2017.

CHAPTER 43

(SB 10)

AN ACT relating to telecommunications.

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

➔Section 1. KRS 278.5435 is amended to read as follows:

- (1) Notwithstanding any other provision of law, a telephone utility operating under a price regulation plan pursuant to KRS 278.543 may, at any time after the expiration of the applicable rate cap period set forth in that section, elect to operate under the modifications to that plan contained in this section. The election of this modification by the utility shall become effective upon the filing of a notice with the commission. The notice shall identify all exchanges served by the modifying utility which, as of January 1, 2015, contained fifteen thousand (15,000) or more housing units based on United States Census data current as of January 1, 2015.
- (2) As used in this section:
 - (a) "Basic local exchange service" has the same meaning as in KRS 278.541;
 - (b) "Exchange" means a geographical area established by a telephone utility for the administration of telephone service. An exchange may embrace a city, town, or village and its environs or a portion thereof, and may consist of one (1) or more central offices together with the associated plant used in furnishing communication services in that area;
 - (c) "IP-enabled service," as used in the context of subsection (4)(c) of this section, means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol that enables an end user to send or receive voice communication, either separately or in conjunction with data communication, video communication, or both, in Internet protocol format, or any successor format;
 - (d) "Modifying utility" means a utility that makes an election to adopt the modified price regulation plan set out in this section; and
 - (e) "Voice service" means a retail service provided through any technology or service arrangement that includes the applicable functionalities described in 47 C.F.R. sec. 54.101(a).
- (3) In exchanges with fifteen thousand (15,000) or more housing units as of January 1, 2015, based on United States Census data current as of January 1, 2015, **and after September 1, 2017, in all exchanges:**
 - (a) The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of any retail service of the modifying utility; and
 - (b) ***For exchanges with fifteen thousand (15,000) or more housing units, the tariffs of a modifying utility which are in effect on June 24, 2015, shall remain binding until such tariffs are withdrawn by the utility. For all exchanges, the tariffs of a modifying utility which are in effect on September 1, 2017, shall remain binding until they are withdrawn by the utility.***
- (4)
 - (a) The provisions of this subsection shall apply ***until September 1, 2017***, to all areas that are not described in subsection (3) of this section and in which the modifying utility is operating as an incumbent local exchange carrier, as defined in 47 U.S.C. sec. 251(h), as of June 24, 2015.
 - (b) In response to a request for service at a location to which the modifying utility or any predecessor in interest has not installed landline facilities necessary to provide basic local exchange service, the modifying utility shall offer voice service either directly or through an affiliate. The modifying utility is not obligated to offer basic local exchange service at the location. The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of the voice service.
 - (c)
 1. In response to all other requests for service, the modifying utility may offer the requesting customer an IP-enabled service or a wireless service either directly or through an affiliate.

2. If the requesting customer does not order an IP-enabled service or a wireless service, the modifying utility, upon request by the customer, shall provide basic local exchange service at that location. The commission retains the jurisdiction to enforce this obligation.
 3. If the requesting customer orders an IP-enabled service or a wireless service, the modifying utility shall notify the customer in writing that:
 - a. It is providing service using an IP-enabled service or a wireless service provided by the modifying utility or an affiliate; and
 - b. The customer has sixty (60) days from service initiation to notify the modifying utility in writing that the customer no longer wants the service.
 4. If the customer gives written notice within sixty (60) days that the service is no longer wanted, the modifying utility, upon request by the customer, shall provide basic local exchange service at that location. The commission retains the jurisdiction to enforce this obligation.
 5. If the customer does not give written notice that the service is no longer wanted within sixty (60) days, the modifying utility shall offer voice service, either directly or through an affiliate, at the requested location. The modifying utility shall not be obligated to offer basic local exchange service at that location. The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of the voice service.
- (5) Nothing in this section:
- (a) Shall affect the obligations of a modifying utility under federal law, including without limitation any obligation to maintain existing voice service in compliance with rules and orders of the Federal Communications Commission; or
 - (b) Diminishes or expands the commission's jurisdiction over wholesale rights, duties, and obligations of carriers or over complaints regarding anti-competitive practices under federal and state law, including subsequent rules and orders of the Federal Communications Commission that address carrier-to-carrier issues in and applicable to this state. Unless otherwise directed by federal law or regulation, carrier-to-carrier complaints within the commission's jurisdiction shall be resolved by final commission order within one hundred eighty (180) days of the filing of the complaint.

Signed by Governor March 20, 2017.

CHAPTER 44

(SB 101)

AN ACT relating to the administration of immunizations by pharmacists.

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

➔Section 1. KRS 315.010 is amended to read as follows:

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

- (1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;
- (2) "Administrative activities of a pharmacy" means the following functions performed by a pharmacy adhering to all local, state, and federal patient privacy laws:
 - (a) Investigating and researching a patient's insurance benefits and updating the patient profile regarding insurance coverage;
 - (b) Billing and collections activities, including:
 1. Contacting patients for copayments and coinsurance payments; and
 2. Communicating with insurance companies;

- (c) Performing patient financial assistance activities and updating patient records accordingly;
 - (d) Opening faxes and accessing electronic prescriptions for the purposes of setting up patient demographic and insurance profiles, excluding height, weight, and allergy information, so long as the activity does not involve the entering of a prescription order into the dispensing or medication management system;
 - (e) Initiating insurance prior authorizations for submission to the licensed pharmacy, including communications with the prescribing physician to collect, record, and transmit information to insurance companies, so long as the activity does not include the authorization or receipt of new or refill prescription orders;
 - (f) Answering and transferring telephone calls, whether or not such calls require accessing a patient record, so long as the call does not involve the interpretation, evaluation, or implementation of a drug order; and
 - (g) Communicating with patients via telephone or electronically regarding refill reminders, so long as the communication does not involve the interpretation, evaluation, or implementation of a drug order and a pharmacist is readily available for patient consultation;
- (3) "Association" means the Kentucky Pharmacists Association;
- (4) "Board" means the Kentucky Board of Pharmacy;
- (5) "Collaborative care agreement" means a written agreement between a pharmacist or pharmacists and a practitioner or practitioners that outlines a plan of cooperative management of patients' drug-related health care needs where:
- (a) Patients' drug-related health care needs fall within the practitioner's or practitioners' statutory scope of practice;
 - (b) Patients are referred by the practitioner or practitioners to the pharmacist or pharmacists; and
 - (c) The agreement:
 - 1. Identifies the practitioner or practitioners and the pharmacist or pharmacists who are parties to the agreement;
 - 2. Specifies the drug-related regimen to be provided, and how drug therapy is to be monitored; and
 - 3. Stipulates the conditions for initiating, continuing, or discontinuing drug therapy and conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;
- (6) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order, including but not limited to packaging, intravenous admixture or manual combination of drug ingredients. "Compounding," as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;
- (7) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;
- (8) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;
- (9) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;
- (10) "Drug" means any of the following:
- (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto;
 - (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals;
 - (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or
 - (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

- (11) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to the following areas:
- (a) Evaluation of prescription drug orders and patient records for:
 - 1. Known allergies;
 - 2. Rational therapy contraindications;
 - 3. Appropriate dose and route of administration;
 - 4. Appropriate directions for use; or
 - 5. Duplicative therapies.
 - (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
 - (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
 - (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;
- (12) "Immediate supervision" means under the physical and visual supervision of a pharmacist;
- (13) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion, or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;
- (14) "Medical order" means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;
- (15) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;
- (16) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (17) "Pharmacist intern" means a natural person who is:
- (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;
 - (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;
 - (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
 - (d) An individual participating in a residency or fellowship program approved by the board for internship credit;
- (18) "Pharmacy" means every place where:
- (a) Drugs are dispensed under the direction of a pharmacist;
 - (b) Prescription drug orders are compounded under the direction of a pharmacist; or
 - (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;
- (19) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, and assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries, as well as those other activities falling within their statutory scope of practice;

- (20) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;
- (21) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; the administration of *immunizations*~~[influenza vaccines]~~ to individuals nine (9) to ~~thirteen (13) years of age pursuant to prescriber approved protocols with the consent of a parent or guardian; the administration of immunizations to individuals fourteen (14) to~~ seventeen (17) years of age pursuant to prescriber-approved protocols with the consent of a parent or guardian; the administration of immunizations to a child as defined in KRS 214.032, pursuant to protocols as authorized by KRS 315.500; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;
- (22) "Practitioner" has the same meaning given in KRS 217.015(35);
- (23) "Prescription drug" means a drug which:
- (a) Under federal law is required to be labeled with either of the following statements:
 1. "Caution: Federal law prohibits dispensing without prescription";
 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";
 3. "Rx Only"; or
 4. "Rx"; or
 - (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;
- (24) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements or protocols authorized by the board. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;
- (25) "Society" means the Kentucky Society of Health-Systems Pharmacists;
- (26) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and
- (27) "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

➔Section 2. KRS 315.205 is amended to read as follows:

Upon the request of an individual or his or her parent or guardian, a pharmacist who administers an immunization to an individual who is *nine (9)*~~[fourteen (14)]~~ to seventeen (17) years of age~~[or an influenza vaccine to an individual who is nine (9) to thirteen (13) years of age]~~, as authorized in KRS 315.010(21), shall provide notification of the immunization to the individual's primary care provider.

Signed by Governor March 20, 2017.

CHAPTER 45

(SB 218)

AN ACT relating to industrial hemp, making an appropriation therefor and declaring an emergency.

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

➔SECTION 1. KRS 260.850 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act:

- (1) *"Commissioner" means the Commissioner of the Kentucky Department of Agriculture;*
- (2) *"Cultivating" means planting, growing, and harvesting a plant or crop;*
- (3) *"Department" means the Kentucky Department of Agriculture;*
- (4) *"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premise of a licensed person to cultivate or process industrial hemp to the premise of another licensed person;*
- (5) *"Industrial hemp" has the same meaning as in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;*
- (6) *"Industrial hemp products" means products derived from, or made by, processing industrial hemp plants or plant parts;*
- (7) *"Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products;*
- (8) *"Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;*
- (9) *"Processing" means converting an agricultural commodity into a marketable form;*
- (10) *"Research pilot program" means a pilot program conducted by the department in collaboration with one (1) or more licensee or university to study methods of cultivating, processing, or marketing industrial hemp under the authority of 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended; and*
- (11) *"University" means an accredited institution of higher education located in the Commonwealth.*

➔SECTION 2. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

It is the declared policy of the Commonwealth that industrial hemp is a viable agricultural crop in the Commonwealth. The purposes of Sections 1 to 13 of this Act are to:

- (1) *Promote the research and study methods of cultivating, processing, and marketing industrial hemp;*
- (2) *Promote the expansion of the Commonwealth's industrial hemp industry to the maximum extent permitted by federal law, in anticipation of a change in federal law allowing citizens of the Commonwealth to cultivate, handle, or process industrial hemp and industrial hemp products for commercial purposes without participating in research pilot programs; and*
- (3) *Move the Commonwealth and its citizens to the forefront of the industrial hemp industry.*

➔SECTION 3. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *The purpose of the research pilot program authorized by this chapter is to enable the department, and its licensees and affiliated universities, to study methods of cultivating, processing, or marketing industrial hemp.*
- (2) *Notwithstanding any other provision of law to the contrary, it is lawful for a licensee, or his or her agent, to cultivate, handle, or process industrial hemp or industrial hemp products in the Commonwealth.*
- (3) *It is unlawful for a person who does not hold a license issued by the department, or who is not an agent of a licensee, to cultivate, handle, process, or market living industrial hemp plants or viable seeds, leaf materials, or floral materials derived from industrial hemp. Penalties for persons who cultivate, handle, process, or market living industrial hemp plants or viable seeds, leaf materials, or floral materials derived from industrial hemp without a license are the same as those penalties that are applicable to persons who violate KRS Chapter 218A, relating to marijuana.*

- (4) *Nothing in this chapter authorizes any person to violate any federal or state law or regulation.*

➔SECTION 4. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to any other powers vested in it by law, the department shall have the authority and power to promulgate administrative regulations to:*
- (a) *Prescribe rules for any industrial hemp pilot program;*
 - (b) *Conduct one (1) or more industrial hemp research pilot programs;*
 - (c) *License persons who wish to participate in an industrial hemp research pilot program by cultivating, handling, processing, or marketing industrial hemp;*
 - (d) *Prescribe rules for a university's participation in, or affiliation with, any industrial hemp research pilot program;*
 - (e) *Prescribe sampling and testing procedures to ensure that industrial hemp and industrial hemp products cultivated, handled, processed, or marketed under the authority of this section do not exceed the concentration levels defined in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;*
 - (f) *Define classes or categories of industrial hemp products that are eligible for sale, transfer, or distribution to members of the public; and*
 - (g) *Establish a schedule of nonrefundable fees for administering any industrial hemp research pilot program.*
- (2) (a) *No person shall cultivate, handle, process, or market industrial hemp in the Commonwealth unless the person holds an industrial hemp license issued by the department.*
- (b) *Any person seeking to cultivate industrial hemp shall provide to the department the legal description and global positioning coordinates sufficient for locating the fields or greenhouses to be used to grow industrial hemp.*
- (c) *Any person seeking to cultivate or process industrial hemp shall provide to the department prior written consent allowing representatives of the department, the Department of Kentucky State Police, and other state and local law enforcement agencies to enter onto all premises where industrial hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the requirements of Sections 1 to 13 of this Act and administrative regulations promulgated by the department.*
- (d) *An applicant for a license issued by the department shall submit to and pay for an annual criminal background check conducted by the Department of Kentucky State Police or another state or federal law enforcement agency selected by the department.*
- (e) *No person who has been convicted of any felony or any drug-related misdemeanor or violation in the previous ten (10) years from the date of application shall be eligible to obtain a license.*

➔SECTION 5. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The Industrial Hemp Advisory Board is created for the purpose of providing advice and expertise as may be needed by a university or the department with respect to plans, policies, and procedures applicable to the administration of its respective industrial hemp research pilot programs.*
- (2) *The Industrial Hemp Advisory Board shall be attached to the department for administrative purposes.*
- (3) *The Industrial Hemp Advisory Board shall be composed of the following members:*
- (a) *The Commissioner of the department or the Commissioner's designee;*
 - (b) *The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;*
 - (c) *The dean of the University of Kentucky's College of Agriculture, Food and Environment or the dean's designee;*
 - (d) *The commissioner of the Department of Kentucky State Police or the commissioner's designee;*
 - (e) *The president of the Kentucky Sheriff's Association or the president's designee;*

- (f) *The president of the Kentucky Association of Chiefs of Police or the president's designee; and*
- (g) *Ten (10) at-large members designated by the Commissioner.*
- (4) *The Commissioner or the Commissioner's designee shall serve as chair.*
- (5) *A majority of the members of the board shall constitute a quorum.*
- (6) *The board shall meet at least one (1) time annually at the call of the chair.*
- (7) *In making the initial appointments of the board, the Commissioner shall stagger the terms of the board members. Thereafter, members shall be appointed to a term of four (4) years and shall serve until their successors are duly appointed and qualified.*
- (8) *Board members shall receive no compensation but shall be reimbursed, payable from the industrial hemp research pilot program fund, for any actual travel expense incurred while attending meetings of the board.*

➔Section 6. KRS 260.868 is amended to read as follows:

A person holding a license issued by the department~~Industrial hemp growers licensed under KRS 260.850 to 260.869~~ may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.

➔Section 7. KRS 260.869 is amended to read as follows:

- (1) There is established in the State Treasury a trust and agency fund entitled the industrial hemp program fund, to be administered by the commission for the purpose of covering the costs of the commission and the industrial hemp research program, as approved by the commission.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private, and shall receive all license application fees and license renewal fees collected by the commission. Money deposited in the fund is hereby appropriated for purposes set out in this section.
- (3) Notwithstanding KRS 45.229, any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund.
- (4) *The industrial hemp program fund shall be closed on July 1, 2017. All moneys remaining in the fund shall be deposited in the industrial hemp research pilot program fund created under Section 8 of this Act and shall be used for the purposes established under that section.*

➔SECTION 8. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The industrial hemp research pilot program fund is hereby created as a separate trust fund in the State Treasury. The fund shall consist of amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, application fees, or license fees provided by Section 4 of this Act, civil penalties as provided by Section 9 of this Act, and any other funds, both public and private, made available for purposes of Sections 1 to 13 of this Act.*
- (2) *The industrial hemp research pilot program fund shall be administered by the department.*
- (3) *Amounts deposited in the industrial hemp research pilot program fund shall be used for the costs of personnel, program administration, testing, actual travel expenses of the advisory board established under Section 6 of this Act, and any other costs incurred while conducting the industrial hemp research pilot programs under Sections 1 to 13 of this Act.*
- (4) *Notwithstanding KRS 45.229, the industrial hemp research pilot program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the industrial hemp research pilot program fund shall become part of the fund and shall not lapse.*
- (6) *Moneys in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes unless the industrial hemp research pilot program is discontinued by the Commissioner as provided by Section 10 of this Act. If the program is discontinued, moneys remaining in the fund shall lapse to the General Fund no later than one (1) year after notice of the program discontinuation, and the fund shall be closed.*

➔SECTION 9. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The department may temporarily suspend a license up to sixty (60) days if the licensee is alleged to have:*
 - (a) *Violated any provision of Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act;*
 - (b) *Made any false statement to the department or its representatives;*
 - (c) *Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation;*
 - (d) *Failed to comply with only those instructions agreed upon in the contract signed by the licensee at the time the industrial hemp license was issued; or*
 - (e) *Failed to comply with an order from a representative of the department, representative of the Department of Kentucky State Police, or any law enforcement officer.*
- (2) *The department may temporarily suspend a license up to sixty (60) days without giving the licensee advance notice of the charge against him or her or an opportunity to be heard.*
- (3) *The department shall not permanently revoke a license until the department has notified the licensee of the charge against him or her and given the licensee an opportunity for a hearing before a three (3) person panel whose members have been designated by the Commissioner. The three (3) person panel shall include:*
 - (a) *Two (2) members who are employees of the department; and*
 - (b) *One (1) member who is not an employee of the department.*
- (4) *The department may permanently revoke a license if the licensee admits, or is found in a hearing, to have:*
 - (a) *Violated any provision of Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act;*
 - (b) *Made any false statement to the department or its representative;*
 - (c) *Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation; or*
 - (d) *Failed to comply with any instruction or order from the department, a representative of the Department of Kentucky State Police, or any law enforcement officer.*
- (5) *The department may impose a monetary civil penalty, not to exceed two thousand five hundred dollars (\$2,500) per violation, on any person who violates Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act.*
- (6) *The department shall not impose a monetary civil penalty against a person alleged to have violated Sections 1 to 13 of this Act, or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act, until the department has notified the person of the charge against him or her and given the person the opportunity for a hearing before the three (3) person panel.*

➔SECTION 10. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, the department may discontinue the industrial hemp research pilot program if the Commissioner finds that:*
 - (a) *A change in federal law makes continuation of the industrial hemp research pilot program impractical or impossible; or*
 - (b) *A change in federal law allows citizens of the Commonwealth to cultivate, handle, or process industrial hemp and industrial hemp products without participating in a research pilot program conducted by the department.*
- (2) *The Commissioner shall notify, in writing, the Governor, the Speaker of the House of Representatives, and the President of the Senate, that the industrial hemp research pilot program has been discontinued.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

The director, or the director's designee, shall receive samples and test industrial hemp plants, plant parts, and materials grown or located within the Commonwealth in order to determine whether the industrial hemp plants, plant parts, and materials are in compliance with the provisions of Sections 1 to 13 of this Act and the administrative regulations promulgated thereunder.

➔Section 12. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:

- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
- (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
- (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
- (d) Substances intended for use as a component of any article specified in this subsection.

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

- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
 - (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Hydrocodone combination product" means a drug with:
 - (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (18) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (19) ***"Industrial hemp" has the same meaning as in Section 1 of this Act;***
- (20) ***"Industrial hemp products" has the same meaning as in Section 1 of this Act;***
- ~~(21)~~~~(19)~~ "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- ~~(22)~~~~(20)~~ "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- ~~(23)~~~~(21)~~ "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
 - (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;

- (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (24)~~((22))~~ "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
- (a) Industrial hemp *that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp; or*~~[as defined in KRS 260.850;]~~
 - (b) *Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;*
 - (c)~~((b))~~ The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or
 - (d)~~((c))~~ For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
- (25)~~((23))~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (26)~~((24))~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (27)~~((25))~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (28)~~((26))~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (29)~~((27))~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (30)~~((28))~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (31)~~((29))~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;

- (32)~~(30)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (33)~~(31)~~ "Physical injury" has the same meaning it has in KRS 500.080;
- (34)~~(32)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (35)~~(33)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (36)~~(34)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (37)~~(35)~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (38)~~(36)~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (39)~~(37)~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (40)~~(38)~~ "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (41)~~(39)~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (42)~~(40)~~ "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (43)~~(41)~~ "Salvia" means *Salvia divinorum* or *Salvinorin A* and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (44)~~(42)~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (45)~~(43)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (46)~~(44)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

~~(47)~~~~(45)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
- (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
- (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted

in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

- (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

~~(48)(46)~~ "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

- (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
- (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
- (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
- (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

~~(49)(47)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

~~(50)(48)~~ "Telehealth" has the same meaning it has in KRS 311.550;

~~(51)(49)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

~~(52)(50)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

~~(53)(51)~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

~~(54)(52)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 13. The following KRS sections are repealed:

260.850 Purpose of KRS 260.850 to 260.869 declared to be the support of industrial hemp production, development, and commercialization -- Accomplishment of purpose achieved through auspices of Industrial Hemp Commission, research, and pursuit of federal permits or waivers -- General Assembly finds that development of industrial hemp is proper governmental purpose and important to Commonwealth's well-being.

260.851 Administrative regulations to license research on industrial hemp and hemp products and establish testing criteria and protocols.

260.853 Promotion of research and development of markets for Kentucky industrial hemp and hemp products -- Responsibilities of the commission -- Establishment of five year research program -- Demonstration plots overseen by University of Kentucky Agricultural Experiment Station -- Research into new energy technologies -- Coordination with universities and the Cabinet for Economic Development -- Exemption from criminal liability -- Annual report.

- 260.854 Conditions and procedures for issuing industrial hemp research program grower license and industrial hemp grower licenses -- Content and processing of applications for licenses -- Criminal background checks -- Commissioner's discretion in approving licenses -- License fees set by administrative regulations -- Monitoring requirements.
- 260.855 Rights and duties of industrial hemp grower licensee -- Operational procedures for licensed growers -- Standards for transporting industrial hemp off premises of licensed grower -- Seizure and disposal of hemp deemed contraband.
- 260.856 Forfeiture of right to grow hemp following revocation of industrial hemp grower license -- Failure to comply with administrative regulations -- Plea to or conviction of felony -- Administrative hearings and appeals.
- 260.857 Kentucky Industrial Hemp Commission -- Membership.
- 260.859 Quorum for commission -- Chair and vice chair.
- 260.861 Meetings -- Compensation of members -- Staff services by Department of Agriculture and University of Kentucky Agricultural Experiment Station.
- 260.863 Recommendations and annual report of commission.
- 260.865 Mandatory adoption of federal rules and regulations regarding industrial hemp -- KRS 260.850 to 260.869 not to conflict with federal law.

➔Section 14. Whereas industrial hemp production has experienced dramatic growth since the research pilot program's inception in 2014, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 20, 2017.

CHAPTER 46

(SB 128)

AN ACT relating to roofing contractors.

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

➔Section 1. KRS 367.628 is amended to read as follows:

- (1) ~~{On or after July 12, 2012, }~~A roofing contractor shall not represent, negotiate, or advertise to represent or negotiate on behalf of an owner of residential real estate on any insurance claim in connection with the repair or replacement of a roof system. Nothing in this subsection shall be construed to prohibit a roofing contractor from:
 - (a) Providing an estimate for repair, replacement, construction, or reconstruction of the property to the owner of residential real estate; or
 - (b) Conferring with an insurance company's representative about damage to the property after a claim has been submitted by the owner of residential real estate.

This subsection shall not apply to a public adjuster licensed under Subtitle 9 of KRS Chapter 304.

- (2) ~~{On or after July 12, 2012, }~~***Where the goods or services are expected to be paid from the proceeds of a property and casualty policy,*** a roofing contractor or person representing a roofing contractor shall not:
 - (a) ***Cause damage to any part of a roof system in order to increase the scope of repair or replacement, or encourage a person to cause damage to any part of a roof system in order to secure a contract for repair or replacement;***
 - (b) Offer to pay or rebate all or any portion of an insurance deductible or claims proceeds as an inducement to the sale of goods or services related to a residential roof contract;
 - (c)~~{(b)}~~ Grant an allowance or discount against the fee to be charged under the contract; or

~~(d)(e)~~ Pay *or offer to pay* the owner of residential real estate *or his or her representative* for whom services have been *or will be* performed pursuant to KRS 367.620 to 367.628, for any reason, any form of compensation in excess of one hundred dollars (\$100), including but not limited to a:

1. Bonus;
2. Coupon;
3. Credit;
4. Gift;
5. Prize;
6. Referral fee; or
7. Any other item having a monetary value.

➔SECTION 2. A NEW SECTION OF KRS 367.620 TO 367.628 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any person may maintain an action to enjoin continuing any act in violation of KRS 367.620 to 367.628 and, if injured by the act, may also maintain an action for the recovery of damages.*
- (b) *If the court finds based on evidence presented by the plaintiff that the defendant is violating or has violated any of the provisions of KRS 367.620 to 367.628, the court shall enjoin the defendant from continuing the violations.*
- (c) *It shall not be necessary that actual economic damages be alleged or proved by the plaintiff in order for the court to enjoin violations.*
- (2) *In addition to injunctive relief, the plaintiff in the action shall be entitled to recover from the defendant two (2) times the amount of any actual economic damages sustained.*
- (3) *The court may award reasonable attorneys' fees and costs to the owner of residential real estate who prevails in an action under subsection (1) of this section, in addition to any other relief the residential real estate owner may be entitled to under this section.*
- (4) *In addition to the provisions of this section, all of the remedies, powers, and duties provided for the Attorney General by KRS Chapter 367 shall apply with equal force and effect to any act declared unlawful by KRS 367.620 to 367.628.*
- (5) *Nothing in this section shall prohibit a person from pursuing the recovery of damages afforded elsewhere under the law.*

Signed by Governor March 20, 2017.

CHAPTER 47

(SB 129)

AN ACT relating to family caregivers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"After-care" means assistance with self-care tasks to be provided by a lay caregiver to a patient in the patient's residence after the patient's discharge from a hospital and may include but is not limited to:*
 - (a) *Assisting with basic or instrumental activities of daily living; and*
 - (b) *Carrying out self-care tasks such as managing wound care, assisting in the administration of medications, and utilizing home medical supplies;*

- (2) *"Discharge" means a patient's exit or release from a hospital to the patient's residence following an inpatient stay;*
- (3) *"Hospital" means a health facility as defined in KRS 216B.015 that provides inpatient care;*
- (4) (a) *"Lay caregiver" means a nonmedical individual, eighteen (18) years of age or older, who takes care of a patient and is designated as a lay caregiver by that patient to provide after-care assistance to the patient living in his or her residence; and*
 (b) *A lay caregiver includes but is not limited to a relative, partner, friend, or neighbor who has a significant relationship with the patient; and*
- (5) *"Residence" means a dwelling that the patient considers to be his or her home. A "residence" does not include any health facility licensed or certified by the Commonwealth.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *A hospital shall provide each patient or, if applicable, the patient's legal guardian with at least one (1) opportunity to designate one (1) lay caregiver following the patient's admission into a hospital and prior to the patient's discharge.*
- (2) *If the patient is unconscious or otherwise incapacitated upon admission into a hospital, the hospital shall provide the patient or the patient's legal guardian with an opportunity to designate a lay caregiver when the patient recovers his or her consciousness or capacity, so long as the designation or lack of a designation does not interfere with, delay, or otherwise affect the medical care provided to the patient.*
- (3) *If the patient or the patient's legal guardian declines to designate a lay caregiver, the hospital shall document this election in the patient's medical record and the hospital shall be deemed to comply with Sections 1 to 6 of this Act.*
- (4) *If the patient or the patient's legal guardian designates an individual as a lay caregiver under this section, the hospital shall request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated lay caregiver following the hospital's established procedures for releasing personal health information and in compliance with all federal and state laws.*
- (5) *If the patient or the patient's legal guardian declines to consent to release medical information to the patient's designated lay caregiver, the hospital shall not be required to provide notice to the caregiver under Section 3 of this Act or provide information contained in the patient's discharge plan under Section 4 of this Act.*
- (6) *The hospital shall record the patient's designation of lay caregiver, the relationship of the designated caregiver to the patient, and the name, telephone number, and address of the patient's designated lay caregiver in the patient's medical record.*
- (7) *A patient may elect to change his or her designated lay caregiver at any time, and the hospital shall record this change in the patient's medical record as soon as practicable.*
- (8) *A designation of a lay caregiver by a patient or a patient's legal guardian under this section shall not obligate any individual to perform any after-care tasks for any patient.*
- (9) *This section shall not be construed to require a patient or a patient's legal guardian to designate any individual as a lay caregiver.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

If a patient or a patient's legal guardian has designated a lay caregiver, the hospital shall notify the patient's designated lay caregiver of the patient's discharge as soon as practicable. If the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *As soon as practicable a hospital shall consult with a designated lay caregiver regarding the patient's after-care needs. If the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay, or otherwise affect an appropriate discharge of the patient.*
- (2) *A discharge plan shall include:*
 - (a) *The name and contact information of the designated lay caregiver;*

- (b) *A description of after-care tasks the patient may perform at the patient's residence; and*
- (c) *Contact information for health care, community, and long-term care resources and supports that may be available and appropriate to assist in implementing the patient's discharge plan.*
- (3) *The purpose of the hospital's consultation with a patient's lay caregiver as described in this section is to assist the lay caregiver in preparing for the patient's after-care needs, which may include demonstrations of after-care tasks and an opportunity to ask questions. The date and time of the consultation shall be documented in the patient's medical record.*
- (4) *The Cabinet for Health and Family Services may promulgate administrative regulations it deems necessary to implement Sections 1 to 6 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 6 of this Act shall be construed to interfere with the rights of an agent operating under a valid health care directive pursuant to KRS Chapter 311.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 6 of this Act shall be construed to create a private right of action or be construed as establishing a standard of care, with respect to a claim that a hospital has failed to comply with Sections 1 to 6 of this Act either in whole or in part.

Signed by Governor March 20, 2017.

CHAPTER 48

(HB 119)

AN ACT relating to solid waste management.

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

➔Section 1. KRS 109.012 is amended to read as follows:

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

- (1) "Board of directors" or "board" means the governing body of a solid waste management district;
- (2) "City" means an existing city of any class;
- (3) "County" means the governing body of a county, including urban-county governments;
- (4) "Cabinet" means the Energy and Environment Cabinet;
- (5) *"Franchise" means a franchise, contract, right, authorization, or privilege granted by a local government for provision of solid waste management services;*
- (6) *"Local government" means a city, county, urban-county government, charter county government, consolidated local government, or unified local government or a solid waste management district created pursuant to KRS Chapter 109;*
- (7)~~(5)~~ "Long-term contract" means a contract of sufficient duration to assure the viability of a resource recovery facility to the extent that such viability depends upon solid waste supply;
- (8)~~(6)~~ "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

- (9)~~(7)~~ "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet;
- (10)~~(8)~~ "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (11) ***"Service company" means any person or entity duly authorized by an agency of the Commonwealth of Kentucky pursuant to the Kentucky Revised Statutes, or administrative regulations promulgated thereunder, for the provision of solid waste management services;***
- (12)~~(9)~~ "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), agricultural operations, and from community activities, but does not include those materials including but not limited to sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditions, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).
- (a) "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunk houses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and camp grounds;
 - (b) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 - (c) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including but not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 - (d) "Municipal solid waste" means household solid waste and commercial solid waste;
- (13)~~(10)~~ "Solid waste management" ***or "solid waste management services" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet approved county or multicounty solid waste management plan of the cabinet. For the purposes of subsection (5) of this section and Section 2 of this Act, "solid waste management services" additionally includes collection, storage, transportation, transfer, processing, treatment, and disposal of special wastes, as designated by Section 5 of this Act, and recovered material;***
- (14)~~(11)~~ "Solid waste management area" or "area" means any geographical area established or, designated by the cabinet in accordance with the provisions of KRS Chapter 224;
- (15)~~(12)~~ "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance; and
- (16)~~(13)~~ "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.115 and operate in conformance with the provisions of this chapter and with Section 4006 of the Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580).

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *After the effective date of this Act, a local government shall not:*
1. *Commence solid waste management services that would have the effect of prohibiting a service company from continuing to provide services that it was providing prior to commencement of services by the local government; or*
 2. *Award a franchise for solid waste management services where no franchise exists; unless the local government complies with the requirements in this section.*
- (b) *Paragraph (a) of this subsection shall not apply to:*
1. *The renewal, according to its terms, or replacement, upon its expiration, of an existing franchise; or*
 2. *The expansion or extension of urban services related to residential waste management services for single family or two-family dwelling units by an urban-county government pursuant to KRS Chapter 67A, so long as that the urban-county government:*
 - a. *Holds at least one (1) public hearing and provides written notice to all service companies registered within the urban-county government no later than ten (10) days prior to the scheduled public hearing; and*
 - b. *Provides written notice to all service companies registered with the urban-county government no later than ten (10) days after:*
 - i. *Receiving a petition to extend urban services;*
 - ii. *Mailing voting cards to proposed service recipients regarding the petition so long as the written notice contains the date that voting cards are to be returned by the recipient; and*
 - iii. *Making a final determination.*
- (2) *Not less than one hundred eighty (180) days prior to making a final determination to take an action described in subsection (1)(a) of this section, a local government shall send written notification by certified mail to the local Kentucky address of all service companies providing solid waste management services within the solid waste management area where the action is proposed to occur that:*
- (a) *Describes the proposed action in detail;*
 - (b) *Provides the date, time, and location of the public hearing required pursuant to subsection (3) of this section; and*
 - (c) *Designates a responsible official within the local government to be available to personally communicate with any service company regarding the particular details of and rationale for the proposed action, including but not limited to the economic and employment consequences of the proposed action.*
- (3) *No sooner than forty-five (45) days but within one hundred eighty (180) days following the written notice required under subsection (2) of this section, the local government shall:*
- (a) *Hold one (1) public hearing that is advertised to the public in accordance with KRS 424.130 for the purposes of:*
 1. *Describing the proposed action, including but not limited to the economic and employment consequences of the plan; and*
 2. *Accepting written comments from the public and service companies regarding the proposed action; and*
 - (b) *Accept additional verbal and written comments regarding the proposed action for no less than thirty (30) days following the public hearing described in paragraph (a) of this subsection.*
- (4) *No later than sixty (60) days following the close of the public comment period described in subsection (3) of this section, the local government shall prepare a summary of all comments, and the local government's response to each comment, received at the public hearings. The local government shall send, by certified*

mail, the summary and response to any service company that has submitted comments and make the summary and response to comments available to the public as an open record.

- (5) (a) *If a local government makes a final determination to take an action described in subsection (1)(a) of this section, the effective time for the action shall be governed by this subsection.*
- (b) *For actions described in subsection (1)(a)1. of this section, the action shall take place no sooner than eighteen (18) months following the local government's final determination.*
- (c) *For actions described in subsection (1)(a)2. of this section, the franchise award shall be effective no sooner than twelve (12) months following the local government's final determination.*
- (d) *This subsection shall not apply to actions taken by a county or solid waste management district pursuant to KRS 109.059.*
- (6) *If a local government makes a final determination to take an action described in subsection (1)(a) of this section, the final determination shall be made no later than three hundred sixty-five (365) days from the date of the notice required pursuant to subsection (2) of this section.*
- (7) *If a local government submits a bid or proposal to perform solid waste management services in competition with a service company, the local government shall incorporate in its bid or proposal all elements that are required of bids from service companies for the same services.*
- (8) *For actions described in subsection (1)(a)1. of this section, nothing in this section shall be interpreted to preclude a local government and the service company or companies impacted by the action from entering into an agreement that provides alternative terms and conditions to govern the rights of a local government and a service company or companies, including but not limited to a complete waiver of the requirements of this section.*
- (9) *This section shall not apply to actions taken by a local government:*
 - (a) *To the extent necessary to mitigate conditions caused by a service company that are reasonably determined to threaten the health or safety of the residents of the community, or a material breach of a contract with the local government, after the service company has been given written notice and the opportunity to cure the condition. If the contract with the local government provides for the remedy associated with a breach of the contract, the terms of the contract shall take precedence over this paragraph; or*
 - (b) *That would result in the service company's loss of fifty (50) or fewer residential customers due to the action. A local government may only take one (1) action to which this paragraph applies every three (3) years.*

➔Section 3. KRS 224.43-315 is amended to read as follows:

- (1) Each county shall provide a universal collection program by October 1, 2003, for all municipal solid waste generated within the county. Collection programs may include one (1) or more of the following options:
 - (a) Door-to-door household collection: Collection service may be provided by the county, by contract, or franchise;
 - (b) Direct haul to staffed convenience centers or staffed transfer facilities within the county: The county may allow residents to haul their waste directly to cabinet-approved staffed convenience centers or staffed transfer facilities within the county. The number of convenience centers and transfer facilities shall be adequate to assure reasonable convenience; and
 - (c) Other alternatives proposed by counties: Counties may propose other alternatives including subscription service and unstaffed convenience centers, and the cabinet shall approve same as long as the county can demonstrate that all of its citizens are being given access to the solid waste collection system which is proposed.
- (2) Beginning October 1, 2003, all persons providing collection service, including collection for the purpose of recycling, shall register annually with the counties in which they provide the service.
- (3) Beginning March 1, 2004, all persons providing collection service, including collection for the purpose of recycling, shall report annually to the counties in which they provide the service. The reports shall include:
 - (a) The number of households, businesses, and industries from which municipal solid waste was being collected on October 1 of the previous year;

- (b) The amount of municipal solid waste collected for disposal during the previous calendar year;
 - (c) The amount of municipal solid waste collected for recycling, by volume, weight, or number of items during the previous calendar year; and
 - (d) The types of items collected for recycling.
- (4) The county shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with this section and any requirements established by the cabinet by administrative regulation.
- (5) The county may enter into agreements with any person for the performance of the responsibilities described in this section, including cities within its geographic boundaries, but the county shall be responsible for providing the universal collection program described in this section, except:
- (a) Any designated city having sole responsibility for developing its portion of the solid waste plan shall be responsible for providing the universal collection within its jurisdiction; or
 - (b) Any city contracting for the collection of its solid waste on February 26, 1991, may continue to contract for the collection of its solid waste if the contract provides for disposal in accordance with the area solid waste management plan.
- (6) ***Any agreement that the county enters into after the effective date of this Act for the collection of solid waste in a city that is not a designated city as defined in subsection (9) of this section within the solid waste management area shall include both the county and the city.***
- (7) If a county or city fails to comply with the provisions of this section, the Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for the county or city.
- ~~(8)(7)~~ A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program, if the commercial or industrial entity demonstrates to the county that the solid waste generated is disposed of in accordance with applicable statutes and administrative regulations.
- ~~(9)(8)~~ (a) As used in this section, "designated city" means a city of the first class or a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the second class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 4. KRS 224.43-345 is amended to read as follows:

- (1) Each area solid waste management plan shall be prepared in accordance with any administrative regulations of the cabinet and shall be required to include the following:
- (a) Identification of the area that will be included in the plan;
 - (b) A demographic study of the planning area of current and projected populations five (5), ten (10) and twenty (20) years in the future. A projection of the amount and source of solid waste generated, collected, and requiring disposal at municipal solid waste disposal facilities for each of these time periods shall be provided;
 - (c) An inventory and description of all existing solid waste management facilities and activities. The description shall include their identity, location, life expectancies, ownership, cost to the users, and level of compliance with state and federal laws. The description is not required to include any solid waste management facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator for the purpose of accepting solid waste from the solid waste generator or waste generated at another facility owned and operated by the generator or wholly owned subsidiary. After commencement of operation by a solid waste generator of a solid waste disposal facility which is permitted but not included in a solid waste management plan, an amendment to a solid waste management plan shall be required for any solid waste which is to be no longer disposed by the solid waste generator in its own solid waste disposal facility;

- (d) An estimate of the area's long-range needs for solid waste management and facilities for five (5), ten (10), and twenty (20) years into the future;
- (e) Identification and assessment of current and future solid waste management problems faced by the area. List any deficiencies with existing solid waste management facilities in meeting current and future area needs, and identify opportunities for improvement;
- (f) Outline short-term, mid-term, and long-term goals and objectives of the solid waste management area. The goals and objectives shall be consistent with the policies and goals set out in KRS 224.43-010;
- (g) Based on the problems, needs, goals, and objectives previously identified, identify alternative approaches to solid waste management and select the optimal alternatives. Solid waste management activities and facilities to be addressed include:
 - 1. Identification of those regulations and ordinances which provide for proper, safe, and sanitary management of solid waste;
 - 2. A description of proposed improvements to existing solid waste collection and transportation systems necessary to achieve universal collection;
 - 3. Establishment of a siting procedure and development program to assure the orderly location, development, and financing of new or expanded municipal solid waste management facilities. The plan shall demonstrate how all persons in the planning area will within the near future have reasonable opportunity to dispose of their waste in a manner that complies with state and federal laws;
 - 4. Identification of planned programs for the control and cleanup of litter and open dumps. The programs shall include: identification of an approved schedule for the cleanup of open dumps in existence as of October 1, 2002; an annual survey of the planning area to discover new open dumps which shall then be scheduled for cleanup within one (1) year unless the cabinet approves a longer schedule; measures to prevent the recurrence of dumping at sites which are cleaned up; cleanup of litter along public roads three (3) times per year; and cleanup of litter along city streets two (2) times per year. In these public road cleanups and also open dump cleanups, nonviolent misdemeanor and Class D felon inmate laborers may be used. A county that does not receive in any year an allocation from the Kentucky pride fund sufficient to complete the number of road cleanups provided for in this section shall not be deemed out of compliance;
 - 5. An assessment of opportunities to reduce the need for land disposal by banning grass clippings, leaves, and other yard wastes from municipal solid waste disposal facilities and the institution of composting operations for grass clippings, leaves, and other yard wastes;
 - 6. Establishment of a plan to reduce the need for land disposal through waste reduction and recycling, materials recovery, and energy recovery and the provision of opportunities for recycling that may include, but are not limited to, drop-off centers or door-to-door collection. Where recycling or material recovery is not deemed feasible, specific factual analysis shall be provided to support the conclusion; and
 - 7. A description of any proposed recycling, materials recovery, or energy recovery plan or facility;
- (h) A five (5) year schedule and description of activities to be undertaken to implement the proposed plan;
- (i) A description of short-term costs of the plan including capital and operational costs for each element of the plan, and the identification of the means of financing plan implementation;
- (j) Designation of the governing body for implementation of the solid waste management plan or components of the plan. A description of its responsibilities and authority shall be provided;
- (k) A description of proposed surveillance and enforcement procedures to assure that solid waste in the planning area is properly managed. Identification of modifications to local laws and regulations necessary to implement the area plan;
- (l) Specific provisions to assure that adequate capacity for a ten (10) year period shall be available for municipal solid waste generated in the solid waste management area, and identification of any additional capacity authorized for disposal of out-of-area municipal solid waste;
- (m) Contractual agreements for use of waste disposal capacity at any municipal solid waste disposal facility inside or outside the waste management area identified and relied upon in the plan;

- (n) Provisions to assure achievement of the policies and goals of KRS 224.43-010;
- (o) Establishment of a public information and participation process including the following components;
 - 1. Formation of an advisory committee ***composed***~~comprised~~ of local residents;~~[-and]~~ business and industry representatives; ***and, with respect to collection of solid waste, representatives of any city that is located within the solid waste management area, is not a designated city as defined in subsection (9) of Section 3 of this Act, and is not located within a county containing a consolidated local government;***
 - 2. Preparation of a draft plan for public notice and comment;
 - 3. Convening of a public hearing upon request; and
 - 4. Publication of a response to public comments.
- (2) A solid waste management plan complying with subsection (1) of this section shall be submitted to the cabinet by October 1, 2002, and updated every five (5) years thereafter. The cabinet shall make its determination approving or disapproving a plan within one hundred twenty (120) days of receipt. A plan on which the cabinet has not yet made a determination shall remain in effect until the determination is made.

➔Section 5. KRS 224.50-760 is amended to read as follows:

- (1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), wastes from coal gasification facilities (vitrified coarse solid residues, prilled or blocked sulfur) approved by the cabinet based on submittal of appropriate testing demonstrating that the wastes are of low hazard, sludge from water treatment facilities and wastewater treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;
- (b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and KRS 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);
- (c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;
- (d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.1-010(31)(a) and 109.012(~~12~~)(~~9~~) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government; and
- (e) It is the intent of the General Assembly that the processing of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, consider the treatment of this sludge by composting as an industrial process. The provisions of this paragraph and subsection (3) of this section shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65, or to a public or private college or university that processes its own water treatment or wastewater treatment sludge by composting on property owned or leased by the city, county, urban-county government, charter county government, special district, or public or private college or university.

- (2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto.
- (3) A permit application to establish, operate, or modify a composting site or composting facility for the processing of water treatment sludge or wastewater treatment sludge, shall require immediately the general public notice provided for in KRS 224.40-310(4) and (5). If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process.

Signed by Governor March 20, 2017.

CHAPTER 49

(SB 89)

AN ACT relating to health benefit coverage for tobacco cessation treatment.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, a health benefit plan shall, at a minimum, provide coverage for all United States Food and Drug Administration-approved tobacco cessation medications, all forms of tobacco cessation services recommended by the United States Preventive Services Task Force, including but not limited to individual, group, and telephone counseling, and any combination thereof.*
- (2) *The following conditions shall not be imposed on any tobacco cessation services provided pursuant to this section:*
 - (a) *Counseling requirements for medication;*
 - (b) *Limits on the duration of services, including but not limited to annual or lifetime limits on the number of covered attempts to quit; or*
 - (c) *Copayments or other out-of-pocket cost sharing, including deductibles.*
- (3) *Utilization management requirements, including prior authorization and step therapy, shall not be imposed on any tobacco cessation services provided pursuant to this section, except in the following circumstances where prior authorization may be required:*
 - (a) *For a treatment that exceeds the duration recommended by the most recently published United States Public Health Service clinical practice guidelines on treating tobacco use and dependence; or*
 - (b) *For services associated with more than two (2) attempts to quit within a twelve (12) month period.*
- (4) *Nothing in this section shall be construed to prohibit a plan or issuer from providing coverage for tobacco cessation services in addition to those recommended or to deny coverage for services that are not recommended by the United States Preventive Services Task Force.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, the Department for Medicaid Services or a managed care organization contracted to provide Medicaid services shall, at a minimum, provide coverage for all United States Food and Drug Administration-approved tobacco cessation medications, all forms of tobacco cessation services recommended by the United States Preventive Services Task Force, including but not limited to individual, group, and telephone counseling, and any combination thereof.*
- (2) *The following conditions shall not be imposed on any tobacco cessation services provided pursuant to this section:*

- (a) *Counseling requirements for medication;*
- (b) *Limits on the duration of services, including but not limited to annual or lifetime limits on the number of covered attempts to quit; or*
- (c) *Copayments or other out-of-pocket cost sharing, including deductibles.*
- (3) *Utilization management requirements, including prior authorization and step therapy, shall not be imposed on any tobacco cessation services provided pursuant to this section, except in the following circumstances where prior authorization may be required:*
 - (a) *For a treatment that exceeds the duration recommended by the most recently published United States Public Health Service clinical practice guidelines on treating tobacco use and dependence; or*
 - (b) *For services associated with more than two (2) attempts to quit within a twelve (12) month period.*
- (4) *Nothing in this section shall be construed to prohibit the Department for Medicaid Services or a managed care organization contracted to provide Medicaid services from providing coverage for tobacco cessation services in addition to those recommended or to deny coverage for services that are not recommended by the United States Preventive Services Task Force.*

Signed by Governor March 21, 2017.

CHAPTER 50

(SB 122)

AN ACT relating to special license plates.

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

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

- (1) As used in this section and in KRS 186.043, 186.164, 186.166, 186.1722, and 186.174:
 - (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
 - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
 - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
 - (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
 - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
 - (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Department of Veterans' Affairs, veterans declared by the United States Department of Veterans' Affairs to be one hundred percent (100%) service-connected disabled, and recipients of the Congressional Medal of Honor:
 - 1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 - 2. Renewal Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 - (b) Former prisoners of war and survivors of Pearl Harbor:

1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
- (c) Members of the Kentucky National Guard and recipients of the Purple Heart:
1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (d) Members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; recipients of the Silver Star Medal, or the Bronze Star Medal awarded for valor; persons who wish to receive Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plates beyond the two (2) exempted from fees under KRS 186.041(6); individuals eligible for a special military service academy license plate under KRS 186.041(8); and disabled veterans who have been declared to be between fifty percent (50%) and ninety-nine percent (99%) service-connected disabled by the United States Department of Veterans' Affairs:
1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
1. Initial Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
- (f) Disabled license plates:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (g) Historic vehicles:
1. Initial Fee for two plates: \$53 (\$50 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) Firefighters:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (j) Emergency management:
1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
- (k) Fraternal Order of Police:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky FOP Death Benefit Fund).
 2. Renewal Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky FOP Death Benefit Fund).

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

1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the child victims' trust fund established under KRS 41.400).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the child victims' trust fund established under KRS 41.400).
- (w) Kentucky Horse Council:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Horse Council).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
 2. Renewal Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:
1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the animal control and care fund established under KRS 258.119).
- (z) Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses:
1. Initial Fee: \$0 (\$0 SF/\$0 CF/ \$0 EF).
 2. Renewal Fee: \$0 (\$0 SF/\$0 CF/ \$0 EF).
 3. A person may receive a maximum of two (2) plates under this paragraph free of charge and may purchase additional plates for fees as established in subsection (2)(d) of this section.
- (aa) I Support Veterans:
1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky Department of Veterans' Affairs).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Department of Veterans' Affairs).
- (ab) Gold Star Siblings, *Gold Star Sons, or Gold Star Daughters*:
1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).
- (4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).
- ➔Section 2. KRS 186.164 is amended to read as follows:
- (1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any

investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

- (2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.
- (3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars (\$28), of which the Transportation Cabinet shall receive twenty-five dollars (\$25) and the county clerk shall receive three dollars (\$3), and the total renewal fee shall be fifteen dollars (\$15), of which the Transportation Cabinet shall receive twelve dollars (\$12) and the county clerk shall receive three dollars (\$3). The twenty-five dollar (\$25) initial fee and twelve dollar (\$12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.
- (4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).
- (5)
 - (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
 - (b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar (\$3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
- (6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar (\$3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.
- (7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).
- (8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.
- (9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:
 - (a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;
 - (b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;
 - (c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be

- construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;
- (d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;
 - (e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;
 - (f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and
 - (g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.
- (10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate standing committees on transportation of the denial and the reasons upon which the cabinet based the denial. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.
- (11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar (\$25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.
- (12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars (\$10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.
- (13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:
- (a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;
 - (b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and
 - (c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.
- (14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group

in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.

- (15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:
 - (a) Documentation that will be required to accompany an application for a special license plate to provide proof of:
 1. Election to the United States Congress or the Kentucky General Assembly;
 2. Election or appointment to the Kentucky Court of Justice;
 3. Membership in a Masonic Order, Fraternal Order of Police, or emergency management organization;
 4. Eligibility for membership in the Gold Star Mothers of America;
 5. Eligibility as a father for associate membership in the Gold Star Mothers of America;
 6. Eligibility for membership in the Gold Star Wives of America;
 7. Ownership of an amateur radio operator license;
 8. Receipt of the Silver Star Medal;
 9. Receipt of the Bronze Star Medal awarded for valor;~~{or}~~
 10. Eligibility for a Gold Star Siblings license plate for a person whose sibling died while serving the country in the United States Armed Forces. For the purposes of this subparagraph, "sibling" means a sibling by blood, a sibling by half-blood, a sibling by adoption, or a stepsibling; **or**
 11. ***Eligibility for a Gold Star Sons or Gold Star Daughters license plate for a person whose parent or stepparent died while serving the country in the United States Armed Forces.***
 - (b) The time schedule permissible for a group or organization to request a design change for the special license plate; and
 - (c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.
- (16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar (\$5,000) fine.

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

- (1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, firefighter license plates, emergency management license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, Gold Star Mothers, ***Fathers, and Spouses*** license plates, ***Gold Star Siblings, Sons, and Daughters license plates***, Silver Star Medal license plates, Bronze Star Medal license plates, spay neuter license plates, service academy license plates, and I Support Veterans license plates.
- (2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of KRS 186.164(15).
- (3)
 - (a) The design of a Purple Heart license plate shall not include any representation of the word "Kentucky" that is a registered trademark or slogan which appears on a general issue license plate.
 - (b) The design of a Purple Heart license plate shall include a representation of the Purple Heart medal and the words "Combat Wounded."

➔Section 4. This Act takes effect January 1, 2018.

Signed by Governor March 21, 2017.

CHAPTER 51

(SB 147)

AN ACT relating to advanced practice doctoral programs at comprehensive universities.

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

➔Section 1. KRS 164.295 is amended to read as follows:

(1) The six (6) state *comprehensive* universities:

- (a) Shall provide, upon approval of the Council on Postsecondary Education, associate and baccalaureate programs of instruction;
- (b) Shall provide, upon approval of the Council on Postsecondary Education, graduate programs of instruction at the master's-degree level in education, business, and the arts and sciences, specialist degrees, and programs beyond the master's-degree level to meet the requirements for teachers, school leaders, and other certified personnel; and
- (c) Shall provide research and service programs directly related to the needs of their primary geographical areas.

(2) A comprehensive university may provide:

- (a) Programs of a community college nature in their own community comparable to those listed for the Kentucky Community and Technical College System, as provided in KRS 164.580;
- (b) Upon approval of the Council on Postsecondary Education, an advanced practice doctoral program in nursing in compliance with KRS 314.111 and 314.131; and
- (c) Upon approval of the Council on Postsecondary Education, one (1) or more additional advanced practice doctoral programs~~[in accordance with subsection (3) of this section]~~.

~~(3) A maximum of eighteen (18) advanced practice doctoral programs may be offered by the six (6) comprehensive universities, with each of the comprehensive universities assured an opportunity to offer a minimum of two (2) advanced practice doctoral programs. The maximum of eighteen (18) advanced practice doctoral programs shall include programs approved under subsection (2)(b) of this section and Ed.D. programs approved under subsection (1)(b) of this section. Upon approval of the eighteenth advanced practice doctoral program, or the expiration of five (5) years from July 12, 2012, whichever occurs first, the Council on Postsecondary Education, in consultation with the Advisory Conference of Presidents, shall assess the review and approval process required by subsection (4) of this section. As part of this assessment, the council shall determine whether the process is meeting the requirements set forth in administrative regulations required by subsection (5) of this section. Upon completion of the assessment, the council may, with the unanimous consent of the Advisory Conference of Presidents, retain the current maximum or recommend a new maximum for consideration of the General Assembly during a regular session of the legislature].~~

(3)~~(4)~~ The Council on Postsecondary Education, in consultation with the Advisory Conference of Presidents pursuant to KRS 164.021, shall develop criteria and conditions upon which an advanced practice doctoral degree program may be approved. The criteria shall include but not be limited to a determination of the academic and workforce needs for a program, consideration of whether the program can be effectively delivered through a collaborative effort with an existing program at another public university within the Commonwealth, and the capacity of a university to effectively offer the program. A university requesting approval of an advanced practice doctoral program shall be required to provide assurance that funding for the program will not impair funding of any existing program at any other public university.~~[The university shall make an annual report to the council identifying the full cost of and all funding sources for each approved doctoral program and the performance of each approved program. Nothing in this subsection shall prohibit the council from approving a doctoral program under consideration at a comprehensive university prior to the~~

~~effective date of the administrative regulations required by subsection (5) of this section, provided that the council determines that the conditions and criteria set out in this subsection have been met.]~~

- ~~(4)(5)}~~ The council shall promulgate administrative regulations setting forth the agreed-on criteria and conditions identified under subsection ~~(3)(4)}~~ of this section.
- (5) *The council shall review advanced practice doctorates consistent with its review schedule for all other academic programs.*
- ~~(6)~~ ~~The council shall submit the approval process to the Interim Joint Committee on Education by October 15, 2011.~~
- ~~(7)~~ ~~The council shall, with the unanimous consent of the members of the Advisory Conference of Presidents pursuant to KRS 164.021, make a recommendation to the Interim Joint Committee on Education as to whether any portion of subsection (2) or (3) of this section should be amended.~~
- ~~(8)}~~ A comprehensive university shall not:
- (a) Offer the terminal degrees of Doctor of Philosophy, Doctor of Musical Arts, *doctor's degrees required for professional practice and licensure in* ~~for first professional degrees in the fields of architecture,~~ medicine, *veterinary medicine, chiropractic,* dentistry, pharmacy, law, or *optometry, or the primary degree required for professional practice and licensure in architecture* ~~engineering~~. The existing school of law at Northern Kentucky University is exempted from the requirements of this paragraph; or
 - (b) Describe itself in official publications or in marketing materials as a research university or research institution. Nothing in this paragraph shall be construed as precluding a comprehensive university from conducting basic, applied, or translational research.

Signed by Governor March 21, 2017.

CHAPTER 52

(SB 153)

AN ACT relating to postsecondary funding, making an appropriation therefor, and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

- (a) *"Category I and Category II square feet" means square footage that falls under space categories as defined by the Postsecondary Education Facilities Inventory and Classification Manual published by the United States Department of Education;*
- (b) *"Comprehensive university" has the same meaning as in KRS 164.001;*
- (c) *"Council" means the Council on Postsecondary Education;*
- (d) *"Equilibrium" means a condition in which every institution has an appropriately proportionate level of resources as determined by the performance funding model established in this section given each institution's level of productivity in achieving student success outcomes, course completion outcomes, and other components included in the model;*
- (e) *"Formula base amount" means an institution's General Fund appropriation amount from the previous fiscal year net of debt service on bonds, appropriations for mandated programs as determined by the council, and any adjustments reflecting the previous fiscal year's performance distribution;*
- (f) *"Hold-harmless provision" means a provision included in the funding formulas as described in subsection (9) of this section that prevents a reduction of a designated portion of funding for an institution through operation of the funding formula;*

- (g) *"Institution" means a college in the Kentucky Community and Technical College System or a public university;*
 - (h) *"KCTCS" means the Kentucky Community and Technical College System;*
 - (i) *"KCTCS institution allocable resources" means the formula base amount net of any equity adjustment as described in subsection (7)(b) of this section, any amount protected by a hold-harmless provision, and any applicable increase or decrease in general fund appropriations;*
 - (j) *"Research universities" means the University of Kentucky and the University of Louisville;*
 - (k) *"Stop-loss provision" means a provision included in the funding formulas as described in subsection (9) of this section to limit reduction of an institution's funding amount to a predetermined percentage, notwithstanding the amounts calculated by operation of the formula; and*
 - (l) *"University allocable resources" means the formula base amount net of any small school adjustment as described in subsection (5)(c) of this section, any amount protected by a hold-harmless provision, and any applicable increase or decrease in general fund appropriations.*
- (2) *The General Assembly hereby finds that improving opportunity for the Commonwealth's citizens and building a stronger economy can be achieved by its public college and university system focusing its efforts and resources on the goals of:*
- (a) *Increasing the retention and progression of students toward timely credential or degree completion;*
 - (b) *Increasing the number and types of credentials and degrees earned by all types of students;*
 - (c) *Increasing the number of credentials and degrees that garner higher salaries upon graduation, such as science, technology, engineering, math, and health, and in areas of industry demand;*
 - (d) *Closing achievement gaps by increasing the number of credentials and degrees earned by low-income students, underprepared students, and underrepresented minority students; and*
 - (e) *Facilitating credit hour accumulation and transfer of students from KCTCS to four (4) year postsecondary institutions.*
- (3) *The General Assembly hereby declares these goals can best be accomplished by implementing a comprehensive funding model for the allocation of state general fund appropriations for postsecondary institution operations that aligns the Commonwealth's investments in postsecondary education with the Commonwealth's postsecondary education policy goals and objectives.*
- (4) *This section establishes a comprehensive funding model for the public postsecondary education system to be implemented by the Council on Postsecondary Education. The funding model shall include a public university sector formula and a KCTCS sector formula.*
- (5) *The funding formula for the public university sector shall:*
- (a) *Recognize differences in missions and cost structures between research universities and comprehensive universities to ensure that neither are advantaged or disadvantaged during the first full year of implementation;*
 - (b) *Distribute one hundred percent (100%) of the university allocable resources for all universities in the sector, based on rational criteria, including student success, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable;*
 - (c) *Include an adjustment to minimize impact on smaller campuses as determined by the council; and*
 - (d) *Be constructed to achieve equilibrium, at which point the funding formula rewards rates of improvement above the sector average rate.*
- (6) *Funding for the public university sector shall be distributed as follows:*
- (a) *Thirty-five percent (35%) of total university allocable resources shall be distributed based on each university's share of total student success outcomes produced, including but not limited to:*
 - 1. *Bachelor's degree production;*
 - 2. *Bachelor's degrees awarded per one hundred (100) undergraduate full-time equivalent students;*

3. *Numbers of students progressing beyond thirty (30), sixty (60), and ninety (90) credit hour thresholds;*
 4. *Science, technology, engineering, math, and health bachelor's degree production; and*
 5. *Bachelor's degrees earned by low-income students and underrepresented minority students;*
- (b) *Thirty-five percent (35%) of total university allocable resources shall be distributed based on each university's share of sector total student credit hours earned, excluding dual credit enrollment, weighted to account for cost differences by academic discipline and course level, such as lower and upper division baccalaureate, master's, doctoral research, and doctoral professional; and*
- (c) *Thirty percent (30%) of total university allocable resources shall be distributed in support of vital campus operations as follows:*
1. *Ten percent (10%) shall be distributed based on each university's share of Category I and Category II square feet, net of research, nonclass laboratory, and open laboratory space, to support maintenance and operation of campus facilities and may include a space utilization factor as determined by the council in collaboration with the working group established in subsection (11) of this section;*
 2. *Ten percent (10%) shall be distributed based on each university's share of total instruction and student services spending, net of maintenance and operation, to support campus administrative functions; and*
 3. *Ten percent (10%) shall be distributed based on each university's share of total full-time equivalent student enrollment to support academic support services such as libraries and academic computing.*
- (7) *The funding formula for the KCTCS sector:*
- (a) *Shall distribute one hundred percent (100%) of KCTCS institution allocable resources for all KCTCS colleges based on rational criteria, including student success, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable;*
 - (b) *May include an adjustment to account for declining enrollment in some regions of the Commonwealth as determined by the council; and*
 - (c) *Shall be constructed to achieve equilibrium, at which point the funding formula rewards rates of improvement above the sector average rate.*
- (8) *Funding for the KCTCS sector shall be distributed as follows:*
- (a) *Thirty-five percent (35%) of total KCTCS institution allocable resources shall be distributed based on each college's share of total student success outcomes produced, including but not limited to:*
 1. *Certificate, diploma, and associate degree production;*
 2. *Numbers of students progressing beyond fifteen (15), thirty (30), and forty-five (45) credit hour thresholds;*
 3. *Science, technology, engineering, math, and health credentials production;*
 4. *Production of high-wage, high-demand, industry credentials as determined using occupational outlook data and employment statistics wage data provided by the Kentucky Office of Employment and Training;*
 5. *Production of industry credentials designated as targeted industries by the Education and Workforce Development Cabinet;*
 6. *Credentials earned by low-income students, underprepared students, and underrepresented minority students; and*
 7. *Transfers to four (4) year institutions;*
 - (b) *Thirty-five percent (35%) of total KCTCS institution allocable resources shall be distributed based on each college's share of total student credit hours earned, weighted to account for cost differences by academic discipline; and*

- (c) *Thirty percent (30%) of total KCTCS institution allocable resources shall be distributed in support of vital campus operations as follows:*
 - 1. *Ten percent (10%) shall be distributed based on each college's share of Category I and Category II square feet, net of research, nonclass laboratory, and open laboratory space, to support maintenance and operation of campus facilities and may include a space utilization factor as determined by the council in collaboration with the postsecondary education working group established in subsection (11) of this section;*
 - 2. *Ten percent (10%) shall be distributed based on each college's share of total instruction and student services spending, net of maintenance and operation, to support campus administrative functions; and*
 - 3. *Ten percent (10%) shall be distributed based on each college's share of total full-time equivalent student enrollment to support academic support services such as libraries and academic computing.*
- (9) (a) *The funding formula for both sectors shall include:*
 - 1. *A hold-harmless provision for fiscal year 2018-2019 preventing a reduction in an institution's funding amount based solely on the formula calculation, and allowing a hold-harmless amount determined by the formula in fiscal year 2018-2019 to be deducted from an institution's formula base amount in whole or in part in fiscal years 2019-2020 and 2020-2021, as determined by the council;*
 - 2. *A stop-loss provision for fiscal year 2019-2020 limiting the reduction in funding to any institution to one percent (1%) of that institution's formula base amount; and*
 - 3. *A stop-loss provision for fiscal year 2020-2021 limiting the reduction in funding to any institution to two percent (2%) of that institution's formula base amount.*
- (b) *For fiscal year 2021-2022 and thereafter, hold-harmless and stop-loss provisions shall not be included in the funding formulas except by enactment of the General Assembly.*
- (c) *Paragraph (a) of this subsection shall not be construed to limit the level of a budget reduction that may be enacted by the General Assembly or implemented by the Governor.*
- (10) (a) *By April 1, 2017, and each April 1 thereafter, the council shall certify to the Office of the State Budget Director the amount to be distributed to each of the public universities and KCTCS as determined by the comprehensive funding model created in this section, not to exceed the available balance in the postsecondary education performance fund created in subsection (13) of this section.*
- (b) *The Office of the State Budget Director shall distribute the appropriations in the postsecondary education performance fund for that fiscal year to the institutions in the amounts the council has certified. The adjusted appropriations to each institution shall be allotted as provided in KRS 48.600, 48.605, 48.610, 48.620 and 48.630.*
- (c) *For fiscal year 2017-2018 the Office of the State Budget Director shall distribute to the public postsecondary education institutions, except for Kentucky State University, those funds appropriated to the postsecondary education performance fund by the General Assembly in 2016 Ky. Acts ch. 149, Part I, K., 12., in accordance with the comprehensive funding model created in this section.*
- (11) (a) *The Council on Postsecondary Education is hereby directed to establish a postsecondary education working group composed of the following:*
 - 1. *The president of the council;*
 - 2. *The president or designee of each public postsecondary institution, including the president of KCTCS;*
 - 3. *The Governor or designee;*
 - 4. *The Speaker of the House or designee; and*
 - 5. *The President of the Senate or designee.*
- (b) *Beginning in fiscal year 2020-2021 and every three (3) fiscal years thereafter, the postsecondary education working group shall convene to determine if the comprehensive funding model is*

functioning as expected, identify any unintended consequences of the model, and recommend any adjustments to the model.

- (c) *The results of the review and recommendations of the working group shall be reported by the council to the Governor, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education.*
- (12) *The council shall promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.*
- (13) (a) *The postsecondary education performance fund is hereby established as an appropriation unit to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities. General fund moneys may be appropriated by the General Assembly to this fund for distribution to the public postsecondary institutions in amounts determined through the comprehensive funding model created in this section.*
- (b) *Any balance in the postsecondary education performance fund at the close of any fiscal year shall not lapse but shall be carried forward to the next fiscal year and be continuously appropriated for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.*

➔Section 2. Whereas 2016 House Bill 303 directed the creation of the postsecondary funding model established in this section and appropriated funds to be distributed through the new model, and whereas reporting requirements for implementation of the model begin on April 1, 2017, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 53

(SB 163)

AN ACT relating to reorganization.

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

➔Section 1. 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 ~~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. 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. 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. 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 2. KRS 18A.030 is amended to read as follows:

- (1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.
- (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:
 - (a) Attend all meetings of the board;
 - (b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;
 - (c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;
 - (d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;
 - (e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;
 - (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
 - (g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;
 - (h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;
 - (i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

- (j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
 - (k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;
 - (l) Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year;
 - (m) Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, review and comment on any proposed selection method change. A classification shall not have its selection method changed without review and comment by the Personnel Board; and
 - (n) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.
- (3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.
 - (4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.
 - (5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.
 - (6) The secretary shall establish and maintain a list of all filled positions exempted from classified service under KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa), and (ab). The list shall include the following information for each filled position:
 - (a) The name of the agency where the position is assigned;
 - (b) The statutory authority for the unclassified status of the position;
 - (c) The title of the position;
 - (d) The pay grade of the position;
 - (e) The annual salary of the employee in the position; and
 - (f) The work county of the employee in the position.
 - (7) Beginning September 1, 2010, and every six (6) months thereafter, the secretary shall provide the Governor and the Legislative Research Commission with a copy of the list described in subsection (6) of this section, and shall indicate on the list any position that has been added to the list since the last submission.
 - (8) ***The secretary shall perform organizational analysis and review.***

➔Section 3. The General Assembly hereby confirms Executive Order 2016-734, dated September 30, 2016, which transfers duties relating to evaluating organizational analysis and review to the Personnel Cabinet, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

(SB 165)

AN ACT relating to the reorganization of the Kentucky Horse Racing Commission.

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

➔Section 1. KRS 230.225 is repealed, reenacted, and amended to read as follows:

- (1) The Kentucky Horse Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing, and related activities within the Commonwealth of Kentucky. The racing commission shall be attached to the Public Protection Cabinet for administrative purposes.
- (2)
 - (a) The Kentucky Horse Racing Commission shall consist of fifteen (15) members appointed by the Governor, with the secretaries of the Public Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic Development Cabinet, *or their designees*, serving as ex officio ~~voting~~~~[, nonvoting]~~ members.
 - (b) Two (2) members shall have no financial interest in the business or industry regulated.
 - (c) The members of the racing commission shall be appointed to serve for a term of *four* ~~(4)~~~~[three (3)]~~ years, *except the initial terms shall be staggered as follows*:
 1. *Five (5) members shall serve for a term of four (4) years;*
 2. *Five (5) members shall serve for a term of three (3) years; and*
 3. *Five (5) members shall serve for a term of two (2) years.*
 - (d) Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
 - (e) In making appointments, the Governor may consider members broadly representative of the Thoroughbred industry and members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. The Governor may also consider recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations.
- (3)
 - (a) Members of the racing commission shall receive *no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions consistent with the reimbursement policy for state employees established by KRS 45.101 and administrative regulations promulgated thereunder*~~[one hundred dollars (\$100) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business]~~.
 - (b) The Governor shall appoint one (1) member of the racing commission to serve as its chairperson who shall serve at the pleasure of the Governor.
 - (c) The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chairperson.
 - (d) Before entering upon the discharge of their duties, all members of the Kentucky Horse Racing Commission shall take the constitutional oath of office.
- (4)
 - (a) The racing commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices.
 - (b) The racing commission may hold meetings at any of its offices or at any other place when the convenience of the racing commission requires.
 - (c) All meetings of the racing commission shall be open and public, and all persons shall be permitted to attend meetings.
 - (d) A majority of the voting members of the racing commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.
- (5) Except as otherwise provided, the racing commission shall be responsible for the following:

- (a) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;
- (b) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;
- (c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;
- (d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues; and
- (e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research.

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

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.

- (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
- (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.

- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
 - 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.

2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. *Office of Executive Director*
 - a. *Division of Pari-mutuel Wagering and Compliance.*
 - b. *Division of Stewards.*
 - c. *Division of Licensing.*
 - d. *Division of Enforcement.*
 - e. *Division of Incentives and Development.*
 - f. *Division of Veterinary Services.*
 - ~~1. Division of Licensing.~~
 - ~~2. Division of Incentives and Development.~~
 - ~~3. Division of Veterinary Services.~~
 - ~~4. Division of Security and Enforcement.~~
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.

2. Division of Non-Depository Institutions.
3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.

8. Workers' Compensation Advisory Council.
9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.

- c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.

- (l) Commonwealth Credit Union.
- (m) State Investment Commission.
- (n) Kentucky Housing Corporation.
- (o) Kentucky Local Correctional Facilities Construction Authority.
- (p) Kentucky Turnpike Authority.
- (q) Historic Properties Advisory Commission.
- (r) Kentucky Tobacco Settlement Trust Corporation.
- (s) Kentucky Higher Education Assistance Authority.
- (t) Kentucky River Authority.
- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - 1. Division of Support Services.

2. Division of Buildings and Grounds.
3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.

- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.
 - (4) Kentucky Commission on Human Rights.
 - (5) Kentucky Commission on Women.
 - (6) Department of Veterans' Affairs.
 - (7) Kentucky Commission on Military Affairs.
 - (8) Office of Minority Empowerment.
 - (9) Governor's Council on Wellness and Physical Activity.

➔Section 3. Notwithstanding KRS 12.028(5), the General Assembly confirms Executive Order 2016-229, dated April 28, 2016, and Executive Order 2016-494, dated July 14, 2016, to the extent not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 55

(SB 176)

AN ACT relating to military surplus vehicles.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, "military surplus vehicle" has the same meaning as in Section 3 of this Act.*

- (2) *A person who has purchased a military surplus vehicle shall be issued a certificate of title after complying with the provisions of this section.*
- (3) *An owner of a military surplus vehicle that does not have a vehicle identification number shall, prior to applying for a certificate of title, apply to the Transportation Cabinet for a vehicle identification number under KRS 186A.090.*
- (4) *When applying for a certificate of title for a military surplus vehicle, the owner shall apply in the office of the county clerk of the county in which he or she resides and provide the clerk with the following:*
 - (a) *Proof of insurance to comply with KRS 304.39-080;*
 - (b) *Proof that the military surplus vehicle has passed an inspection in accordance with Section 2 of this Act; and*
 - (c) *Any other information that may be required by the Transportation Cabinet in an administrative regulation promulgated under KRS Chapter 13A.*
- (5) *The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement this section.*

➔Section 2. KRS 186A.115 is amended to read as follows:

- (1)
 - (a) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his *or her* application for title to the county clerk, have the vehicle together with his *or her* application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.
 - (b) *An owner of a military surplus vehicle seeking title in this state shall, before submitting his or her application for title to the county clerk, have the vehicle together with his or her application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.*
- (2) *For inspections under this section:*
 - (a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles;~~[-]~~
 - (b) There shall be a five dollar (\$5) fee for this certification, payable to the sheriff's office, upon completion of certification;~~[-]~~
 - (c) There shall be an additional fee of ten dollars (\$10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area; *and*~~[-]~~
 - (d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.
- (3) *The Transportation Cabinet may require that modifications be made to a military surplus vehicle. Any modifications required by the cabinet under this section shall be made to the military surplus vehicle prior to its inspection.*
- (4) *The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of subsections (1)(b) and (3) of this section, including but not limited to vehicle modification requirements and the creation of a separate inspection form. The Transportation Cabinet shall note that military vehicles were originally manufactured under the federally mandated requirements set forth in 49 C.F.R. sec. 571.7 and shall only require these vehicles to meet applicable federal motor vehicle safety standards.*
- (5)~~(2)~~ The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

- (a) New motor vehicles sold by a dealer licensed in this state;
 - (b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;
 - (c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;
 - (d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;
 - (e) Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet Web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and
 - (f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.
- ~~(6)(3)~~ When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his *or her* name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:
- (a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;
 - (b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;
 - (c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;
 - (d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;
 - (e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and
 - (f) Except as provided in KRS 186A.072(2)(c) governing custom-built motorcycles, if the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by the documents specified by administrative regulations of the Department of Vehicle Regulation.
- ~~(7)(4)~~ When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:
- (a) He *or she* shall ensure that the application is legible and properly executed to the extent required at the time of execution;

- (b) He *or she* shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;
 - (c) He *or she* shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and
 - (d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his *or her* first name, middle initial, and last name, and his *or her* title; the name of the county in which he serves; and the telephone number including the telephone area code of his *or her* agency, and sign in ink his *or her* signature in the space provided, and print the month, day, and year in which his *or her* inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his *or her* inspection.
- (8)~~(5)~~ The certified inspector shall refrain from executing the certificate of inspection if:
- (a) He *or she* has not personally and physically inspected the vehicle in accordance with this section;
 - (b) He *or she* has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;
 - (c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;
 - (d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or
 - (e) He *or she* has probable cause to believe the vehicle is stolen.
- (9)~~(6)~~
- (a) Inspections on motor vehicles that meet the definition of a "historic vehicle" under KRS 186.043(2) and are brought into this state shall be limited to verification of the vehicle identification number with supporting documentation for purposes of titling.
 - (b) Inspections on motor vehicles that meet the definition of a classic motor vehicle project as set forth in KRS 186A.510 shall be limited to verification of the vehicle identification number with supporting documentation for purposes of issuing a classic motor vehicle project certificate of title under KRS 186A.535(1).

➔Section 3. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but shall include low-speed vehicles *and military surplus vehicles* as defined in this section.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7)
 - (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
 - (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
 - (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8)
 - (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
 - (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
 - (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."

- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. "Motorcycle" shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry; and
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.
- (19) ***"Military surplus vehicle" means a multipurpose wheeled surplus military vehicle that:***
- (a) Is not operated using continuous tracks;***
 - (b) Was originally manufactured for and sold directly to the Armed Forces of the United States; and***
 - (c) Was originally manufactured under the federally mandated requirements set forth in 49 C.F.R. sec. 571.7.***

Signed by Governor March 21, 2017.

CHAPTER 56

(SB 183)

AN ACT relating to reorganization.

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

➔Section 1. The General Assembly hereby confirms the Governor's Executive Order 2016-832, dated November 18, 2016, to the extent it is not otherwise confirmed or superseded by this Act, relating to the reorganization of the Public Service Commission which is administratively attached to the Energy and Environment Cabinet by:

- (1) Establishing the Office of General Counsel which shall be headed by an executive director who shall report to the executive director of the Public Service Commission;
- (2) Establishing the Division of General Administration which shall be headed by a director who shall report to the executive director of the Public Service Commission;
- (3) Establishing the Division of Inspections which shall be headed by a director who shall report to the executive director of the Public Service Commission;
- (4) Abolishing the Division of Engineering and transferring all files, funds, personnel, records, and equipment to the newly established Division of Inspections;

- (5) Abolishing the Division of Consumer Services and transferring all files, funds, personnel, records, and equipment to the newly established Division of General Administration;
- (6) Abolishing the Division of Filings and transferring all files, funds, personnel, records, and equipment to the newly established Division of General Administration and the Division of Financial Analysis; and
- (7) Abolishing the Division of General Counsel and transferring all files, funds, personnel, records, and equipment to the newly established Office of General Counsel.

Signed by Governor March 21, 2017.

CHAPTER 57

(SB 189)

AN ACT relating to motor vehicle licenses and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS 186.020 TO 186.270 IS CREATED TO READ AS FOLLOWS:

- (1) *At the time of initial application for registration or application for renewal, the owner or lessee of a motor vehicle may inform the county clerk that he or she, or someone who may be operating the vehicle, is deaf or hard of hearing and request that information be included in the Kentucky vehicle registration system database to assist law enforcement in identifying the operator of the vehicle as possibly being deaf or hard of hearing.*
- (2)
 - (a) *The deaf or hard of hearing protection trust fund is created as a separate trust fund in the State Treasury. The trust fund shall consist of any proceeds from gifts, grants, contributions, appropriations, or other moneys made available for the purposes of the trust fund.*
 - (b) *The fund shall be administered by the Kentucky Commission on the Deaf or Hard of Hearing.*
 - (c) *Notwithstanding KRS 45.229, trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
 - (d) *Any interest earnings of the trust fund shall become part of the trust fund and shall not lapse.*
 - (e) *Trust fund moneys deposited in this fund shall only be used to:*
 - 1. *Reimburse the Transportation Cabinet for the cost of including information that someone is deaf or hard of hearing in the Kentucky vehicle registration system database;*
 - 2. *Support other actions to protect the safety and welfare of persons who are deaf or hard of hearing; and*
 - 3. *Educate the public and the deaf and hard of hearing community on issues confronting the deaf and hard of hearing.*

Signed by Governor March 21, 2017.

CHAPTER 58

(SB 197)

AN ACT relating to law enforcement training and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

- (1) *Effective May 1, 2017, contract employees of Eastern Kentucky University who are engaged in providing instructional and support services to the mission of the Department of Criminal Justice Training shall be transferred to the Department of Criminal Justice Training within the Justice and Public Safety Cabinet along with the funding associated with those employees. The Personnel Cabinet shall assist in implementing the transfer of employees.*
- (2) *Employees transferred pursuant to subsection (1) of this section shall retain the following:*
 - (a) *All salaries and leave time balances accumulated as of the transfer date;*
 - (b) *The date of initial contract employment with the Eastern Kentucky University for purposes of determining leave time accumulation; and*
 - (c) *The date of initial participation in a state-administered retirement system if the employee has participated or is participating in the Kentucky Employees Retirement System or the Kentucky Teacher's Retirement System for the purpose of calculating retirement benefits. However, nothing in this paragraph shall be construed to provide additional service credit for an employee prior to the transfer date other than what has already been credited to the appropriate retirement system, and any months of service accrued while employed by Eastern Kentucky University shall not count towards classified or unclassified service as defined in KRS 18A.005.*
- (3) *As of May 1, 2017, employees transferred pursuant to subsection (1) of this section shall participate in the Kentucky Employees Retirement System as nonhazardous members pursuant to KRS 61.510 to 61.705.*
- (4) *Employees transferred to the Department of Criminal Justice Training pursuant to this section shall be eligible to participate in the state-sponsored life and health insurance benefit programs administered by the Personnel Cabinet in accordance with KRS Chapter 18A. Employees shall be eligible for coverage under the life and health insurance programs effective May 1, 2017, and shall not be subject to any waiting period that may be otherwise applicable to participation in these programs.*

➔Section 2. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998, shall be deemed to have met the requirements of this subsection;
 - (d)
 1. Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council, which may provide a different number of hours of instruction as established in this paragraph. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection.
 2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.
 3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as set out in this paragraph, it shall not further change the number of

hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

4. Nothing in this paragraph shall be interpreted to prevent the council pursuant to its authority under KRS 15.330 from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation set out by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as set out by subparagraphs 2. and 3. of this paragraph.
 5. ***KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:***
 - a. ***Years of service credit as a law enforcement officer with previous service in another state; and***
 - b. ***Basic training completed in another state;***
- (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of forty (40) hours' duration, of which the number of hours shall not be changed by the council, at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
 - (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;
 - (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;
 - (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; and
 - (i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet, and which includes:
 1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;
 2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the department be transmitted to a department with jurisdiction within ten (10) days of its receipt by the department;

3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the department;
 4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and
 5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of any person to whom the evidence matched.
- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.
 - (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.
 - (4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

➔Section 3. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
 - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
 - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
 - (c) Members of boards and commissions;
 - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
 - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
 - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
 - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
 - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the secretary approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the secretary. Effective August 1, 2010:
 1. All positions approved under this paragraph prior to August 1, 2010, shall be abolished effective December 31, 2010, unless reapproved under subparagraph 2. of this paragraph; and

2. A position approved under this paragraph on or after August 1, 2010, shall be approved for a period of five (5) years, after which time the position shall be abolished unless reapproved under this subparagraph for an additional five (5) year period;
 - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
 - (j) Physicians employed as such;
 - (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
 - (l) The judicial department, referees, receivers, jurors, and notaries public;
 - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
 - (n) Patients or inmates employed in state institutions;
 - (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
 - (p) Interim employees;
 - (q) Officers and members of the state militia;
 - (r) Department of Kentucky State Police troopers;
 - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
 - (t) Superintendents of state mental institutions, including heads of centers for individuals with an intellectual disability, and penal and correctional institutions as referred to in KRS 196.180(2);
 - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
 - (v) County and Commonwealth's attorneys and their respective appointees;
 - (w) Chief district engineers and the state highway engineer;
 - (x) Veterinarians employed as such by the Kentucky Horse Racing Commission;
 - (y) Employees of the Kentucky Peace Corps;
 - (z) Employees of the Council on Postsecondary Education;
 - (aa) Executive director of the Commonwealth Office of Technology;
 - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;
 - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and
 - (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
- (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
- (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be

considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

- (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
- (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
- (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
- (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.
- (9) *On May 1, 2017, all contract employees of Eastern Kentucky University who are engaged in providing instructional and support services to the Department of Criminal Justice Training shall be transferred to the personnel system under KRS Chapter 18A. All records shall be transferred, including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems for Eastern Kentucky University and under KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No employee shall suffer any penalty in the transfer.*

➔Section 4. Whereas the provisions of this Act are to be implemented by May 1, 2017, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 59

(HB 100)

AN ACT relating to distilled spirits.

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

➔Section 1. KRS 241.010 is amended to read as follows:

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

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes; and
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3)
 - (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
 - (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Bed and breakfast" means a one (1) family dwelling unit that:
 - (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
 - (b) Holds a permit under KRS Chapter 219; and
 - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (7) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (9) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (10) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (11) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests;

- (12) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) "City administrator" means city alcoholic beverage control administrator;
- (15) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power exclusively and which:
 - (a) Has four (4) wheels;
 - (b) Is operated in a manner similar to that of a bicycle;
 - (c) Is equipped with a minimum of thirteen (13) seats for passengers;
 - (d) Has a unibody design;
 - (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
 - (f) Is used for commercial tour purposes; and
 - (g) Is operated by the vehicle owner or an employee of the owner;
- (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (18) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (20) "County administrator" means county alcoholic beverage control administrator;
- (21) "Department" means the Department of Alcoholic Beverage Control;
- (22) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (23) "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:
 - (a) Prorated and allowed on each delivery;
 - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
 - (c) Based on dollar volume or on the quantity of merchandise purchased;
- (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (25) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (26) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;

- (27) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (29) "Election" means:
 - (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol;
- (30) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;
- (31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (32) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (35) "Limited restaurant" means:
 - (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or
 - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244;
- (36) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;
- (37) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (38) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (39) "Minor" means any person who is not twenty-one (21) years of age or older;
- (40) "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1243, 242.1244, or 242.1292;
- (41) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
- (42) "Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (43) "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

- (44) "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served. Notwithstanding the provisions of this subsection:
- (a) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; and
 - (b) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;
- shall be deemed a "qualified historic site" under this section;
- (45) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (46) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (47) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;
- (48) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;
- (49) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers;
- (50) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- (51) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required;
- (52) "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;
- (53) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (54) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited;
- (55) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (56) "Small farm winery" means a winery producing wines, in an amount not to exceed one hundred thousand (100,000) gallons in a calendar year;
- (57) "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
 - (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;
- (58) "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires;
- (59) "State park" means a state park that has a:

- (a) Nine (9) or eighteen (18) hole golf course; or
- (b) Full-service lodge and dining room, and may include a nine (9) or eighteen (18) hole golf course;
- (60) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures;
- (61) "Territory" means a county, city, district, or precinct;
- (62) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (63) ***"Vintage distilled spirit" means a package or packages of distilled spirits that:***
 - (a) ***Are in their original manufacturer's unopened container;***
 - (b) ***Are not owned by a distillery; and***
 - (c) ***Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;***
- (64) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (65)~~((64))~~ "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (66)~~((65))~~ "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, 242.125, or 242.1292 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?"
- (67)~~((66))~~ "Wholesale sale" means a sale to any person for the purpose of resale;
- (68)~~((67))~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (69)~~((68))~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and
- (70)~~((69))~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) ***A person holding a license to sell distilled spirits by the drink or by the package at retail may sell vintage distilled spirits purchased from a nonlicensed person upon written notice to the department in accordance with administrative regulations promulgated by the department.***
- (2) ***Vintage distilled spirits may be resold only:***
 - (a) ***By the drink by a person holding a license to sell distilled spirits by the drink; and***
 - (b) ***By the package by a person holding a license to sell distilled spirits by the package.***

➔Section 3. KRS 243.0305 is amended to read as follows:

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) A wholesaler registered to distribute the brands of any distiller may permit the distiller to deliver a souvenir package directly from the distillery proper to any portion of the distillery premises. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all

products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.

- (3) A distiller may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of four and one-half (4-1/2) liters per visitor per day.
- (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.
- (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:
 - (a) Sampling shall be permitted only on the licensed premises during regular business hours;
 - (b) A distillery shall not charge for the samples; and
 - (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces of samples per visitor per day.
- (8) In accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
 - (a) Hold an NQ3 retail drink license for the sale of alcoholic beverages on the distillery premises. Notwithstanding KRS 243.110, a licensed distiller may also hold any of the retail licenses available to it under this section;
 - (b) Sell alcoholic beverages produced or bottled on the premises of its Kentucky licensed distillery for on-premises purposes without having to transfer physical possession of those alcoholic beverages to a licensed wholesaler if:
 1. All direct shipments are invoiced from the distiller to its wholesaler and from the wholesaler to the distiller; and
 2. All products directly shipped are included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.890 and 243.990; and
 - (c) Employ persons to engage in the sale or service of alcohol under an NQ3 license, if each employee completes the department's Server Training in Alcohol Regulations program within thirty (30) days of the beginning of his or her employment.
- (9) ***A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery.***
- (10) Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:
 - (a) The provisions of KRS Chapters 241 to 244;
 - (b) The administrative regulations of the board; and
 - (c) Regulation by the board at all the distiller's licensed premises.
- ~~(11)~~ ~~(10)~~ Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.

➔Section 4. KRS 243.480 is amended to read as follows:

- (1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows:

- (a) *Except for violations arising from retail sales activities, including sales under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305:*
 - 1. Distillers, rectifiers, wineries, and brewers, one thousand dollars (\$1,000) per day;
 - 2. Wholesale liquor licensees, four hundred dollars (\$400) per day;
 - 3. Wholesale beer licensees, four hundred dollars (\$400) per day; *and*
 - (b) 1. Retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars (\$50) per day; ~~and~~
 - 2. *Distillers, wineries, and brewers for violations arising from their retail sales activities, including sales by distillers under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305, fifty dollars (\$50) per day; and*
 - (c) All remaining licensees, fifty dollars (\$50) per day.
- (2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.
 - (3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.
 - (4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

➔Section 5. KRS 244.370 is amended to read as follows:

No whiskey produced *from grains which are cooked, fermented, and distilled* in Kentucky, except whiskey the barrel containing which is branded "Corn Whiskey" under the internal revenue laws, shall be bottled in Kentucky or removed from this state unless such whiskey has been aged in oak barrels for a period of not less than one (1) full year; provided, however, that whiskey aged less than one (1) year may be removed from the state and bottled, or bottled in Kentucky, if the word "Kentucky" or any word or phrase implying Kentucky origin does not appear on the front label or elsewhere on the retail container or package except in the name and address of the distiller as required by federal regulation. For violations of this section, the department shall revoke the permit of the licensee from whose warehouse or premises such whiskey shall have been removed or in which such whiskey shall have been bottled.

➔Section 6. Sections 1 and 2 of this Act take effect January 1, 2018.

Signed by Governor March 21, 2017.

CHAPTER 60

(HB 113)

AN ACT relating to occupational licensure for military service members and veterans.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "administrative body" has the same meaning as in KRS 12.010.*
- (2) *Each administrative body that issues a license, permit, certificate, or other document that is required to operate within any business, profession, or occupation in the Commonwealth may issue a license, permit, certificate, or other document, or a temporary license, permit, certificate, or other document to a United States military service member or veteran who is seeking a license, permit, certificate, or other document under this section and has:*

- (a) *Separated from the military with an honorable discharge, discharge under honorable conditions, or a general discharge under honorable conditions within two (2) years preceding the date of applying for the license, permit, certificate, or other document;*
 - (b) *Received training, education, or experience during active, National Guard, or federal reserve military service to the extent that such training, education, or experience satisfies the requirements established by law and administrative regulations of the respective board for the issuance of any license, permit, certificate, or other document, however styled or denominated, required for the practice of any business, profession, or occupation in the Commonwealth; and*
 - (c) *Submitted his or her DD214 form or other proof of satisfactory completion of military training to the administrative body as part of the license or certificate application.*
- (3) *Nothing in subsection (2) of this section shall require an administrative body to issue a license, permit, certificate, or other document if the administrative body determines that the military training or experience does not meet the requirements established by the administrative body for the issuance of a license, permit, certificate, or other document to operate within a business, profession, or occupation in the Commonwealth.*
- (4) *Administrative bodies that receive multiple requests under this section are directed to publish clear guidelines to clarify requirements. These guidelines may be published electronically, in print, or by the promulgation of administrative regulations.*
- (5) *Military training and experience submitted under subsection (2) of this section shall not be used as a substitute or in lieu of:*
- (a) *A postsecondary school degree when a degree is a prerequisite for a license, permit, certificate, or other document; or*
 - (b) *A specified examination when passage of an examination is a prerequisite for a license, permit, certificate, or other document.*

Signed by Governor March 21, 2017.

CHAPTER 61

(HB 158)

AN ACT relating to controlled substances.

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

➔Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances ***classified as Schedule III controlled substances pursuant to Section 2 of this Act*** ~~listed in KRS 218A.090(5)~~ but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;

- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Hydrocodone combination product" means a drug with:
- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (18) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (19) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (20) "Isomer" means the optical isomer, except *the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to Section 2 of this Act* ~~as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer~~;
- (21) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (22) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
- (a) Industrial hemp as defined in KRS 260.850;
 - (b) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or
 - (c) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

- (23) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (24) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (25) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (26) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (27) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (28) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under ***Section 2 of this Act*** ~~KRS 218A.030~~, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (29) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (30) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (31) "Physical injury" has the same meaning it has in KRS 500.080;
- (32) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (33) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (34) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (35) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

- (36) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (37) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (38) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (39) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (40) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (41) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (42) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (43) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (44) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (45) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
 - (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
 - (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in

the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
 - (e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
 - (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
 - (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
 - (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
 - (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or
 - (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (46) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
 - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or

- (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (47) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (48) "Telehealth" has the same meaning it has in KRS 311.550;
- (49) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
 - (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (50) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (51) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (52) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 2. KRS 218A.020 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall administer this chapter and may by *administrative* regulation add substances to or delete or reschedule all substances enumerated in the schedules *authorized under*~~[set forth in]~~ this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:
 - (a) The actual or relative potential for abuse;
 - (b) The scientific evidence of its pharmacological effect, if known;
 - (c) The state of current scientific knowledge regarding the substance;
 - (d) The history and current pattern of abuse;
 - (e) The scope, duration, and significance of abuse;
 - (f) The risk to the public health;
 - (g) The potential of the substance to produce psychic or physiological dependence liability; and
 - (h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
- (2) After considering the factors enumerated in subsection (1) of this section, the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.
- (3) (a) If any substance is designated *or*~~[,]~~ rescheduled~~[, or deleted]~~ as a controlled substance under *the federal Controlled Substances Act, the drug shall be considered to be controlled at the state level in the same numerical schedule corresponding to the federal schedule.*
- (b) *Notwithstanding paragraph (a) of this subsection, the Cabinet for Health and Family Services may file an amendment to the administrative regulations promulgated pursuant to this section to control the substance in a more restrictive numerical schedule than the federal schedule as permitted by subsection (1) of this section*~~[law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation].~~
- (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

- (5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule a substance substantially similar to a synthetic cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

➔Section 3. KRS 243.100 is amended to read as follows:

A natural person shall not become a licensee under KRS 243.020 to 243.670 if he or she:

- (1)
 - (a) Has been convicted of any felony until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;
 - (b) Has been convicted of any misdemeanor *involving a controlled substance that is described in or classified pursuant to Section 2 of this Act or* ~~under~~ KRS ~~218A.050,~~ **218A.040**, 218A.060, ~~218A.070,~~ 218A.080, ~~218A.090,~~ 218A.100, *or* ~~218A.110,~~ 218A.120 ~~, or 218A.130~~ in the two (2) years immediately preceding the application;
 - (c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;
 - (d) Is under the age of twenty-one (21) years;
 - (e) Has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or
 - (f) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his or her application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.
- (2) A partnership, limited partnership, limited liability company, corporation, or governmental agency shall not be licensed if:
 - (a) Each member of the partnership or each of the directors, principal officers, or managers does not qualify under subsection (1)(a), (b), (c), and (d) of this section;
 - (b) It has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or
 - (c) It is a partnership or corporation, if any member of the partnership or any director, manager, or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.
- (3) The provisions of subsection (1)(a) and (b) shall apply to anyone applying for a new license under this chapter after July 15, 1998, but shall not apply to those who renew a license that was originally issued prior to July 15, 1998, or an application for a supplemental license where the original license was issued prior to July 15, 1998.

➔Section 4. KRS 243.390 is amended to read as follows:

- (1) In addition to other information as the board may by administrative regulation require, every application for a license under KRS 243.020 to 243.670 shall contain the following information, given under oath:
 - (a) The name, age, Social Security number, address, residence, and citizenship of each applicant;
 - (b) If the applicant is a partner, the name, age, Social Security number, address, residence, and citizenship of each partner and the name and address of the partnership;
 - (c) The name, age, Social Security number, address, residence, and citizenship of each person interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, or limited liability company, the name, age, Social Security number, address, and residence of each officer, director, member, partner, and managerial employee and the citizenship of each, and the state under the laws of which the corporate

applicant is incorporated or organized. The department may require the names of all the stockholders and the percentage of stock held by each;

- (d) The premises to be licensed, stating the street and number, if the premises has a street number, and otherwise such a description that will reasonably indicate the location of the premises;
 - (e) A statement that neither the applicant nor any other person referred to in this section has been convicted of ~~any~~ any misdemeanor directly or indirectly attributable to alcoholic beverages; any violation *involving a controlled substance that is described in or classified pursuant to Section 2 of this Act or* ~~or~~ KRS ~~218A.050,~~ **218A.040**, 218A.060, ~~218A.070,~~ 218A.080, ~~218A.090,~~ 218A.100, ~~or 218A.110,~~ 218A.120, ~~or 218A.130~~ within the two (2) years immediately preceding the application; any felony, within five (5) years from the later of the date of parole or the date of conviction; or providing false information to the department preceding the application; and that the applicant or any other person referred to in this section has not had any license that has been issued to him under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application; and
 - (f) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages.
- (2) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the board within ten (10) days after the change.
 - (3) In giving any notice or taking any action in reference to a license, the board may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in the application or supplemental statement shall be deemed material in any prosecution for perjury.

➔Section 5. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.
- (2) Making any false, material statements in an application for a license or supplemental license.
- (3) Violation of the provisions of KRS 243.670.
- (4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:
 - (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
 - (b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or
 - (c) Any felony.
- (5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Department of Revenue made in pursuance thereof.
- (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.
- (7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.
- (8) Conviction of the licensee, his agents, servants, or employees for:

- (a) The sale or use upon the licensed premises of those items *classified pursuant to Section 2 of this Act* ~~described in KRS 218A.050 to 218A.130~~ as controlled substances, including synthetic drugs;
- (b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items *classified pursuant to Section 2 of this Act* ~~described in KRS 218A.050 to 218A.130~~ as controlled substances, including synthetic drugs; or
- (c) Knowingly receiving stolen property upon the licensed premises.

➔Section 6. KRS 314.011 is amended to read as follows:

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

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

- (7) "Advanced practice registered nurse" or "APRN" means a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist, who is licensed to engage in advance practice registered nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;
- (8) "Advanced practice registered nursing" means the performance of additional acts by registered nurses who have gained advanced clinical knowledge and skills through an accredited education program that prepares the registered nurse for one (1) of the four (4) APRN roles; who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced practice registered nursing as a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist; and who certified in at least one (1) population focus. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced practice registered nurses who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances *described in or* as classified *pursuant to Section 2 of this Act or* ~~in~~ KRS 218A.060, ~~218A.070,~~ 218A.080, ~~218A.090,~~ 218A.100, *and* ~~218A.110,~~ 218A.120, ~~and 218A.130,~~ under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.

- (a)
 1. Prescriptions issued by advanced practice registered nurses for Schedule II controlled substances classified under KRS 218A.060, except hydrocodone combination products as defined in KRS 218A.010, shall be limited to a seventy-two (72) hour supply without any refill.
 2. Prescriptions issued by advanced practice registered nurses for hydrocodone combination products as defined in KRS 218A.010 shall be limited to a thirty (30) day supply without any refill.
 3. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced practice registered nurse certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional services program for mental health or individuals with an intellectual disability as defined in KRS Chapter 210.
- (b) Prescriptions issued by advanced practice registered nurses for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced practice registered nurses for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.
- (c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

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

- (9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, advanced practice registered nurse, physician assistant, licensed physician, or dentist;

- (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
- (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician;
- (20) "Population focus" means the section of the population within which the advanced practice registered nurse has targeted to practice. The categories of population foci are:
- (a) Family and individual across the lifespan;
 - (b) Adult gerontology;
 - (c) Neonatal;
 - (d) Pediatrics;
 - (e) Women's health and gender-related health; and
 - (f) Psychiatric mental health; and
- (21) "Conviction" means but is not limited to:

- (a) An unvacated adjudication of guilt;
- (b) Pleading no contest or nolo contendere or entering an Alford plea; or
- (c) Entering a guilty plea pursuant to a pretrial diversion order;

Regardless of whether the penalty is rebated, suspended, or probated.

➔Section 7. The following KRS sections are repealed:

218A.030 Controlled substances -- How scheduled.

218A.050 Schedule I controlled substances.

218A.070 Schedule II controlled substances.

218A.090 Schedule III controlled substances.

218A.110 Schedule IV controlled substances.

218A.130 Schedule V controlled substances.

Signed by Governor March 21, 2017.

CHAPTER 62

(HB 183)

AN ACT relating to alcoholic beverage control.

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

➔Section 1. KRS 241.010 is amended to read as follows:

As used in ~~this chapter and in~~ KRS Chapters ~~241 to 244~~~~[242 and 243]~~, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes; and
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3)
 - (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
 - (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-

- counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
 - (b) Holds a permit under KRS Chapter 219; and
 - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (7) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (9) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (10) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (11) "Caterer" means a ***person operating a food service business that prepares***~~corporation, partnership, or individual that operates the business of a food service professional by preparing~~ food in a licensed and inspected commissary, ***transports***~~transporting~~ the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to ***an agreed***~~a~~ location~~selected by the customer~~, and ***serves***~~serving~~ the food and alcoholic beverages ***pursuant to an agreement with another person***~~to the customer's guests~~;
- (12) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) "City administrator" means city alcoholic beverage control administrator;
- (15) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power exclusively and which:
- (a) Has four (4) wheels;
 - (b) Is operated in a manner similar to that of a bicycle;
 - (c) Is equipped with a minimum of thirteen (13) seats for passengers;
 - (d) Has a unibody design;
 - (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
 - (f) Is used for commercial tour purposes; and

- (g) Is operated by the vehicle owner or an employee of the owner;
- (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (18) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (20) "County administrator" means county alcoholic beverage control administrator;
- (21) "Department" means the Department of Alcoholic Beverage Control;
- (22) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (23) "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:
- (a) Prorated and allowed on each delivery;
 - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
 - (c) Based on dollar volume or on the quantity of merchandise purchased;
- (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (25) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (26) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (27) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (29) "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol;
- ~~(30) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;~~
- ~~(31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;~~
- ~~(31) (32) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;~~
- (32) "Investigator" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting licensees, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;**

- (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (35) "Limited restaurant" means:
- (a) ~~A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or~~
 - (b) A facility where the usual and customary business is the **preparation and** serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its **food and alcoholic beverage** ~~gross~~ receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; **or**
 - (b) *A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under Section 25 of this Act;*
- (36) *"Local administrator" means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;*
- (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;
- (38)~~(37)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (39)~~(38)~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (40)~~(39)~~ "Minor" means any person who is not twenty-one (21) years of age or older;
- (41)~~(40)~~ "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1243, 242.1244, or 242.1292;
- (42) *"Population" means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;*
- (43)~~(41)~~ "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold ~~its~~ ~~this or her~~ license or obtain a renewal, of the license;
- (44) *"Primary source of supply" or "supplier" means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;*
- (45)~~(42)~~ "Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (46)~~(43)~~ "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

~~(47)~~~~(44)~~ "Qualified historic site" means:

- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;~~[- or]~~
- (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served;~~[- Notwithstanding the provisions of this subsection:]~~
- (c)~~(a)~~ A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; ~~or~~~~and]~~
- (d)~~(b)~~ A not-for-profit or nonprofit facility listed on the National Register of Historic Places;

~~shall be deemed a "qualified historic site" under this section;~~

~~(48)~~~~(45)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;

~~(49)~~~~(46)~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;

~~(50)~~~~(47)~~ "Restaurant" means a facility where the usual and customary business is the *preparation and* serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and *alcoholic* beverage receipts from the sale of food *at the premises*;

~~(51)~~~~(48)~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;

~~[(49) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers;]~~

~~(52)~~~~(50)~~ "Retail sale" means any sale where delivery is made in Kentucky to any consumers;

~~(53)~~~~(51)~~ "Retailer" means any *licensee*~~[person]~~ who sells *and delivers*~~[at retail]~~ any alcoholic beverage *to consumers, except for producers with limited retail sale privileges*~~[for the sale of which a license is required];~~

~~(54)~~~~(52)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;

~~(55)~~~~(53)~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;

~~(56)~~~~(54)~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar~~[- A service bar shall be located in an area where the general public, guests, or patrons are prohibited];~~

~~(57)~~~~(55)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;

~~(58)~~~~(56)~~ "Small farm winery" means a winery *whose wine production*~~[producing wines, in an amount]~~ *is not less than two hundred fifty (250) gallons and not greater than*~~[to exceed]~~ one hundred thousand (100,000) gallons in a calendar year;

~~(59)~~~~(57)~~ "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:

- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
- (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;

- (60)~~((58))~~ "State ~~*administrator*~~~~[director]~~ or "*administrator*" means the ~~director of the Division of~~ distilled spirits *administrator* or the ~~director of the Division of~~ malt beverages *administrator*, or both, as the context requires;
- (61)~~((59))~~ "State park" means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
 - (b) Full-service lodge and dining room~~, and may include a nine (9) or eighteen (18) hole golf course~~;
- (62)~~((60))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar~~. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures~~;
- (63)~~((61))~~ "Territory" means a county, city, district, or precinct;
- (64) "*Urban-county administrator*" means an urban-county alcoholic beverage control administrator;
- (65)~~((62))~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (66)~~((63))~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (67)~~((64))~~ "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (68)~~((65))~~ "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050 ~~or~~, 242.125~~, or 242.1292~~ on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?";
- (69)~~((66))~~ "Wholesale sale" means a sale to any person for the purpose of resale;
- (70)~~((67))~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (71)~~((68))~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and
- (72)~~((69))~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔Section 2. KRS 241.015 is amended to read as follows:

There is created a Department of Alcoholic Beverage Control, which shall constitute a statutory administrative department of the state government within the meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic beverage control and the Alcoholic Beverage Control Board. The commissioner shall head the department, shall be its executive officer, and shall have charge of the administration of the department and perform all functions of the department not specifically assigned to the board. The Governor shall appoint as commissioner a person with administrative experience in the field of alcoholic beverage control~~. The commissioner shall be appointed for a term of four (4) years~~.

➔Section 3. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the Department of Revenue. *The department may issue advisory opinions and declaratory rulings related to KRS Chapters 241 to 244 and the administrative regulations promulgated under those chapters.*
- (2) A Division of Distilled Spirits, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.

- (3) A Division of Malt Beverages, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

➔Section 4. KRS 241.030 is amended to read as follows:

The Alcoholic Beverage Control Board shall consist of the commissioner of alcoholic beverage control and two (2) persons appointed by the secretary of the Public Protection Cabinet with the approval of the Governor, who shall be persons with administrative experience in the field of alcoholic beverage control ~~and who shall serve for terms of four (4) years each~~. One (1) of ~~these~~~~such~~ persons shall serve as **administrator**~~director~~ of the Division of Distilled Spirits, and the other shall serve as **administrator**~~director~~ of the Division of Malt Beverages. The commissioner shall be chairman of the board.

➔Section 5. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers, and duties:

- (1) To promulgate reasonable administrative regulations governing procedures relative to the applications for and revocations of licenses, the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages, and all other matters over which the board has jurisdiction. Administrative regulations need not be uniform in their application but may vary in accordance with reasonable classifications;
- (2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end, the board may make reasonable division and subdivision of the state or any political subdivision into districts. Administrative regulations relating to the **approval, denial**~~granting, refusal~~, and revocation of licenses may be different within the several divisions or subdivisions;
- (3) To hold hearings in accordance with the provisions of KRS Chapter 13B. The department may pay witnesses the per diem and mileage provided in KRS 421.015;
- (4) To conduct hearings and appeals under KRS 241.150, 241.200, **241.260**, 243.470, and 243.520 and render final orders upon the subjects of the hearings and appeals;
- (5) To **order the destruction of**~~destroy~~ evidence in the department's possession after all administrative and judicial proceedings are conducted;
- (6) To suspend, revoke, or cancel for cause, after a hearing in accordance with KRS Chapter 13B, any license ~~issued under KRS 243.020 to 243.670~~; **and**
- (7) To prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed if a violation of KRS **Chapters**~~Chapter~~ 241 ~~to~~, ~~KRS 243.020 to 243.670, or KRS Chapter~~ 244 has taken place on the premises which the owner knew of or should have known of, or was committed or permitted in or on the premises owned by the licensee~~; and~~
- ~~(8) To suspend a license for any cause for which the board is authorized to exercise its discretion as to revoking a license.~~

➔Section 6. KRS 241.080 is amended to read as follows:

The ~~director of the Division of~~ distilled spirits **administrator** may **approve and** issue or **deny**~~refuse to issue~~ any state license ~~provided for in KRS 243.020 to 243.670~~ authorizing traffic in distilled spirits and wine. The ~~director of the Division of~~ malt beverages **administrator** may **approve and** issue or **deny**~~refuse to issue~~ any state license ~~provided for in KRS 243.020 to 243.670~~ authorizing traffic in malt beverages. **Both the distilled spirits administrator and the malt beverages administrator may approve and issue or deny state licenses authorizing the traffic in alcoholic beverages.**

➔Section 7. KRS 241.090 is amended to read as follows:

State **administrators**~~directors~~ and all **investigators**~~field representatives~~ shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the state. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant. They may confiscate any contraband property.

➔SECTION 8. KRS 241.100 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The commissioner, distilled spirits administrator, malt beverage administrator, and all department employees shall comply with the Executive Branch Code of Ethics codified in KRS Chapter 11A. A board member or department employee who violates this section may be disqualified from office or employment.

➔Section 9. KRS 241.110 is amended to read as follows:

- (1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS Chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge/executive shall ~~immediately thereupon~~ constitute a county alcoholic beverage control administrator for the county. However, the county judge/executive may decline to accept ~~this said~~ office, or after accepting ~~the office, the county judge/executive~~ ~~same he~~ may resign ~~from the office therefrom~~, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, ~~the county judge/executive he~~ may ~~promptly thereupon~~ appoint a person at least thirty (30) years of age, who at the time of ~~the his~~ appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive as county alcoholic beverage control administrator for ~~that such~~ county. Before entering upon ~~the his~~ duties ~~of as such~~ county alcoholic beverage control administrator appointed by the county judge/executive, the appointee shall take the oath prescribed by Section 228 of the Constitution ~~and execute a bond with a good corporate surety in the penal sum of one thousand dollars (\$1,000). The cost of the bond shall be borne by the county.~~ Upon the qualification ~~and appointment of this such~~ person as county alcoholic beverage control administrator for ~~the such~~ county, ~~the person he~~ shall immediately notify the ~~department board~~.
- ~~(2) The functions of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be the same as set out in KRS 241.140.~~
- ~~(3) The compensation of the such~~ county alcoholic beverage control administrator, appointed by the county judge/executive, shall be fixed by the fiscal court in accordance with KRS 64.530. The county judge/executive may also appoint ~~any such~~ investigators and clerks ~~as are~~ deemed necessary for the proper conduct of ~~the such~~ county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure of the county judge/executive.
- ~~(3)(4)~~ No person shall be a county alcoholic beverage control administrator, ~~as herein provided for,~~ an investigator, or an employee of the county under the supervision of ~~the such~~ county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.
- ~~(4)(5)~~ The ~~said~~ county alcoholic beverage control administrator, appointed by the county judge/executive, and ~~the administrator's his~~ investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of ~~the such~~ county and within the corporate limits of any city ~~in the county therein~~ not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (5) ***Before entering upon official duties, each county administrator shall take the oath prescribed in Section 228 of the Constitution.***
- ~~((6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be made pursuant to KRS 241.150.)~~

➔Section 10. KRS 241.140 is amended to read as follows:

Each county administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each county administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization. ~~The functions of each county administrator shall be the same, with respect to local licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a county administrator may be less stringent than statutes relative to alcoholic beverage control or than the regulations of the board. If any city appoints its own administrator under KRS 241.160[241.170], the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city, unless the department determines that the city does not have an adequate police force of its own or under KRS 70.540, 70.150, 70.160, and 70.170.~~

➔Section 11. KRS 241.150 is amended to read as follows:

Appeals from ~~a decision or order the orders~~ of a county administrator may be taken to the board by filing ~~a notice of appeal~~ with the board within thirty (30) days ~~after the decision or order a certified copy of the orders~~ of the county administrator ***is mailed or delivered by personal service. The notice of appeal shall specify the county***

administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the county administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from *decisions or* orders of the county administrator shall be governed by KRS Chapter 13B.

➔Section 12. KRS 241.160 is amended to read as follows:

- (1) The legislative body of any wet or moist city with a population equal to or greater than three thousand (3,000){~~based upon the most recent federal decennial census~~} or a consolidated local government shall by ordinance create the office of city alcoholic beverage control administrator, or shall assign the duties of this office to a presently established city office.
- (2) Except as provided in *subsection (3) of this section*{~~KRS 241.170(1)(b)~~}, the legislative body of any wet or moist city with a population of less than three thousand (3,000){~~based on the most recent federal decennial census~~} may, by ordinance, create the office of city alcoholic beverage control administrator or shall assign the duties of the office to a presently established office.
- (3) *If located in a county containing a consolidated local government, cities with a population of less than three thousand (3,000) shall not create the office of city alcoholic beverage control administrator. Any city under this subsection that had created the office of city alcoholic beverage control and appointed a person to that office prior to August 1, 2014, shall not be prohibited by this subsection.*

➔Section 13. KRS 241.170 is amended to read as follows:

- (1){~~(a)~~} The city administrator in each city of the first class or the administrator in a consolidated local government, and *any*{~~such~~} investigators and clerks{~~as are~~} deemed necessary for the proper conduct of *this*{~~his~~} office, shall be appointed by the mayor. The city administrator in each city of the first class or the administrator in a county containing a consolidated local government, and *the administrator's*{~~his~~} investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with boundaries of the city of the first class or the boundaries of the county in a county containing a consolidated local government. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- {~~(b)~~} ~~Only those cities with a population equal to or greater than three thousand (3,000) or more based upon the most recent federal decennial census, or those cities with a population of less than three thousand (3,000) based upon the most recent federal decennial census that had appointed an administrator prior to August 1, 2014, that are located in a county containing a consolidated local government are authorized to appoint an administrator. If a city authorized under this paragraph appoints its own administrator under this paragraph and KRS 241.160, the administrator of a consolidated local government in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of such a city, unless the department determines that the city does not have an adequate police force of its own or pursuant to KRS 70.150, 70.160, 70.170, and 70.540.~~
- (2) The city administrator in each city, other than a consolidated local government, shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor.
- (3) No person shall be an administrator, an investigator, or an employee of the city or a consolidated local government under the supervision of the administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (4) *Before entering upon official duties, each city administrator shall take the oath prescribed in Section 228 of the Constitution. An appointed city alcoholic beverage control administrator shall immediately notify the department of qualification and appointment.*

➔Section 14. KRS 241.190 is amended to read as follows:

Each city administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each city administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization{~~The functions of each city administrator shall be the same with respect to city licenses and regulations as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a city administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board.~~}.

➔Section 15. KRS 241.200 is amended to read as follows:

Appeals from ***a decision or order***~~[the orders]~~ of each city administrator may be taken to the board by filing ***a notice of appeal*** with the board within thirty (30) days ***after the decision or order***~~[a certified copy of the orders]~~ of the city administrator ***is mailed or delivered by personal service. The notice of appeal shall specify the city administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the city administrator and shall be accompanied by a copy of the decision or order being appealed.*** Matters at issue shall be heard by the board as upon an original proceeding. Appeals from ***decisions or*** orders of the city administrator shall be governed by KRS Chapter 13B.

➔Section 16. KRS 241.230 is amended to read as follows:

- (1) The urban-county administrator in each urban-county government and ***any***~~[such]~~ investigators and clerks~~[as are]~~ deemed necessary for the proper conduct of ***the***~~[his]~~ office, shall be appointed by the mayor. The urban-county administrator, and ***the urban-county administrator's***~~[his]~~ investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with ***the***~~[such]~~ urban-county governments. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (2) No person shall be an urban-county administrator, an investigator, or an employee of the urban-county government under the supervision of the urban-county administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (3) ***Before entering upon official duties, each urban-county administrator shall take the oath prescribed in Section 228 of the Constitution. An appointed urban-county alcoholic beverage control administrator shall immediately notify the department of qualification and appointment.***

➔Section 17. KRS 241.250 is amended to read as follows:

Each urban-county administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each urban-county administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization~~[The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board].~~

➔Section 18. KRS 241.260 is amended to read as follows:

Appeals from ***a decision or order***~~[the orders]~~ of each urban-county administrator may be taken to the board by filing ***a notice of appeal*** with the board within thirty (30) days ***after the decision or order***~~[a certified copy of the orders]~~ of the urban-county administrator ***is mailed or delivered by personal service. The notice of appeal shall specify the urban-county administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the urban-county administrator and shall be accompanied by a copy of the decision or order being appealed.*** Matters at issue shall be heard by the board as upon an original proceeding. Appeals from ***decisions or*** orders of the urban-county administrator shall be governed by KRS Chapter 13B.

➔Section 19. KRS 242.022 is amended to read as follows:

- (1) (a) To promote economic development and tourism in any dry or moist county or city in which a state park is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in a city or county precinct where the state park's qualifying lodge or golf course is located~~;~~ ***notwithstanding any other provision of the Kentucky Revised Statutes***.
- (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under KRS 242.022 on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at the state park located in (name of precinct)'?"
- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020 ~~to~~ 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at the state park located in the (name of precinct)?"
- (3) When a majority of the votes cast at an election held under subsections (1) and (2) of this section are in favor of establishing moist territory, the entire state park shall become moist in the manner specified in KRS 242.200.

➔Section 20. KRS 242.030 is amended to read as follows:

- (1) The date of the local option election may be stated in the petition for election. If the date is not stated, it shall be designated by the county judge/executive.
- (2) The local option election shall be held not earlier than sixty (60) nor later than **one hundred fifty (150)**~~ninety (90)~~ days after the date the petition is filed with the county clerk.
- (3)~~The local option election shall not be held on the same day that a primary or general election is held in the territory or any part of the territory, nor within thirty (30) days next preceding or following a regular political election.~~
- (4)~~A local option election in any territory less than the county shall not be held on the same day on which an election for the entire county is held, except as approved in KRS 242.125.~~
- (5)~~No local option election shall be held in the same territory more than once in every three (3) years.~~

➔Section 21. KRS 242.123 is amended to read as follows:

- (1) (a) To promote economic development and tourism in **any dry or moist**~~a~~ county ~~or~~~~containing a wet or moist~~ city,~~with the exception of a moist territory in accordance with KRS 242.1292(1),~~ a local option election for the limited sale of alcoholic beverages may be held in any precinct containing a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course~~, notwithstanding any other provisions of the Kentucky Revised Statutes~~.
- (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under KRS 242.123 on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at **a golf course or courses**~~(name of golf course)~~ in the (name of precinct)?'".
- (2) A local option election for the limited sale of alcoholic beverages **authorized by**~~held under~~ subsection (1) of this section shall be **held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120.**~~conducted in the same manner specified in KRS 242.020 to 242.120, except that~~ The form of the proposition to be voted upon shall be: "Are you in favor of the sale of alcoholic beverages by the drink at **a golf course or courses**~~(name of golf course)~~ in the (name of precinct)?".

➔Section 22. KRS 242.124 is amended to read as follows:

- (1) If a licensed small farm winery is located in a dry or moist territory, the small farm winery shall remain dry or moist unless sales at the small farm winery are approved through a local option election held in accordance with the provisions of this section.
- (2) **A local option election for the limited sale of alcoholic beverages may be held in a dry or moist city or county precinct where a small farm winery is located**~~limited sale precinct election may be held in a precinct containing a licensed small farm winery or a proposed small farm winery located in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.020 to 242.120.~~
- (3) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of **alcoholic beverages**~~wine~~ at **a**~~(name of the licensed or proposed)~~ small farm winery or wineries **located in (name of precinct)**?'".
- (4) **A local option election for the limited sale of alcoholic beverages authorized by subsection (2) of this section shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be:**~~If the precinct contains a licensed small farm winery or a proposed small farm winery, the proposition to be voted on in the limited local option election shall state,~~ "Are you in favor of the sale of **alcoholic beverages**~~wine~~ at **a**~~(the (name of the licensed or proposed)~~ small farm winery or wineries **located in (name of precinct)**?'".

➔Section 23. KRS 242.1241 is amended to read as follows:

- (1) (a) If the sale of alcoholic beverages is permitted at a licensed small farm winery located in a wet **or moist** territory, a limited sale precinct election may be held to authorize the sale of alcoholic beverages on Sunday at the small farm winery.

- (b) *A local option election authorized under this subsection shall be held in accordance with*~~The election shall be held in the same manner as prescribed by~~ KRS 242.020 to 242.040, and 242.060 to 242.120.
- (c) The petition seeking a limited sale precinct election under this section shall state, "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages on Sunday at a small farm winery located in (name of *precinct*~~territory~~) between the hours of 1 p.m. and (the prevailing local time for that locality)?'"
- (d) If the precinct contains a licensed small farm winery, the proposition to be voted on in the limited sale precinct election shall state, "Are you in favor of the sale of alcoholic beverages on Sunday at a licensed small farm winery or wineries located in (name of *precinct*~~territory~~) between the hours of 1 p.m. and (the prevailing time for that locality)?"
- (2) ~~Notwithstanding KRS 242.030,~~ A limited sale precinct election to authorize Sunday sales at a small farm winery may be held less than three (3) years after a local option election held in accordance with KRS 242.124 to authorize the sale of *alcoholic beverages*~~wine~~ at that small farm winery.

➔Section 24. KRS 242.1242 is amended to read as follows:

- (1) (a) To promote economic development and tourism in any dry or moist county or city in which a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.
- (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'".
- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020 ~~to~~~~;~~ 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?".

➔Section 25. KRS 242.1244 is amended to read as follows:

- (1) (a) In order to promote economic development and tourism,~~other provisions of the Kentucky Revised Statutes notwithstanding,~~ a dry or moist city or county may~~, by petition in accordance with KRS 242.020,~~ hold a local option election on the sale of alcoholic beverages by the drink at restaurants~~and dining facilities~~ that seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their *food and alcoholic beverage*~~gross~~ receipts from the sale of food if alcoholic beverages are purchased in conjunction with a meal. A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at restaurants~~and dining facilities~~ with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their *food and alcoholic beverage*~~gross~~ receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'".
- (b) The election shall be held in accordance with KRS ~~242.020 to~~~~242.030(1), (2), and (5),~~ 242.040, and 242.060 to 242.120.~~, and~~ The *form of the proposition to be voted upon shall be:*~~on the ballot shall state~~ "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants~~and dining facilities~~ with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their *food and alcoholic beverage*~~gross~~ receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants~~and dining facilities, and the licensees may be regulated and taxed in accordance with KRS 243.072~~.
- (2) (a) In order to promote economic development and tourism,~~other provisions of the Kentucky Revised Statutes notwithstanding,~~ a dry or moist city or county may~~, by petition in accordance with KRS 242.020,~~ hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their *food and alcoholic beverage*~~gross~~ receipts from the sale of food.
- (b) A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale

of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their **food and alcoholic beverage** receipts from the sale of food?"".

- (c) The election shall be held in accordance with KRS **242.020 to 242.030**(1), (2), and (5), 242.040, and 242.060 to 242.120. ~~and~~ The **form of the proposition to be voted upon shall be:** ~~on the ballot shall state~~ "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their **food and alcoholic beverage** receipts from the sale of food?"". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities ~~and the licensees may be regulated and taxed in accordance with KRS 243.072.~~

- (3) A local option proposition under subsection (1) of this section is a separate proposition than a local option proposition held under subsection (2) of this section, so that a separate limited local option election ~~is required for sales~~ under each subsection **is permitted**. A territory may, by separate limited local option elections, simultaneously allow alcoholic beverage sales under subsections (1) and (2) of this section. A territory may also hold a limited local option election to allow alcoholic beverage sales under either subsection (1) or (2) of this section without authorizing alcoholic beverage sales under the other subsection.

➔Section 26. KRS 242.125 is amended to read as follows:

- (1) A city shall not be deemed to be the "same territory" as that of a county within the meaning of **subsection (3) of Section 20 of this Act** ~~KRS 242.030(5)~~. A city shall have the right to determine its wet or dry status separate from a county's wet or dry status.
- (2) A dry or moist city may hold a local option election to take the sense of the city residents for establishing the city as a wet territory. If the majority of the votes are in favor of establishing the city as a wet territory, the whole city shall become wet territory by application of KRS 242.200. **A moist city that becomes wet under this section shall retain its moist status and have dual status as both wet and moist.**
- (3) Once a city **becomes wet** ~~votes~~ under this section ~~to become wet territory~~ separate from the county, a countywide local option election establishing the county as dry ~~or moist~~ territory shall not cause the city to become dry ~~or moist~~ territory.
- (4) **Once a city becomes wet under this section separate from a county, a countywide local option election establishing the county as moist territory shall cause the city to have dual status as both wet and moist.**
- (5) A wet city may hold a local option election to take the sense of the city residents for establishing the city as a dry or moist territory. If the majority of the votes are in favor of establishing the city as a dry ~~or moist territory~~, the whole city shall become dry ~~or moist territory~~ by application of KRS 242.190. **A wet city that becomes moist under this section shall retain its wet status and have dual status as both wet and moist.**
- ~~(6)(5)~~ If a city votes to become wet territory, a precinct of the city may hold a later election in conformity with this chapter to take the sense of the city precinct residents for establishing the city precinct as a dry or moist territory. If the majority of the votes are in favor of establishing the city precinct as a dry or moist territory, the city precinct shall become dry or moist territory by application of KRS 242.190.
- ~~(7)(6)~~ If a city precinct becomes dry or moist territory separate from a wet city, the city precinct may hold a later election in conformity with this chapter, to take the sense of the city precinct residents for reestablishing the city precinct as a wet territory. If the majority of the votes are in favor of reestablishing the city precinct as a wet territory, the city precinct shall become wet territory by application of KRS 242.200.
- ~~(8)(7)~~ A dry or moist county containing a wet city may hold a local option election to take the sense of the county residents for establishing the county as a wet territory. If the majority of the votes are in favor of establishing the county as a wet territory, the whole county shall become wet territory by application of KRS 242.200.
- ~~(9)(8)~~ A wet county containing a wet city by separate city election under this section may hold a local option election to take the sense of the county residents for establishing the county as a dry or moist territory. If the majority of the votes are in favor of establishing the county as a dry ~~or moist~~ territory, the county territory outside the **separately** wet city limits shall become dry ~~or moist territory~~ by application of KRS 242.190. **If the majority of the votes are in favor of establishing the county as moist territory, both the county and city shall retain their wet status and have dual status as both wet and moist.**

- (10)(9) Residents of any city, including a separately wet city, are residents of the county, and shall therefore be permitted to sign any petitions for, and vote in, county local option elections~~[under this section]~~.
- (11)(10) A petition seeking a *wet* local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of county, city, or precinct)?'".
- (12)(11) In any *wet* local option election under this section, the *form of the* proposition to be voted upon shall ~~be: [state]~~ "Are you in favor of the sale of alcoholic beverages in (name of county, city, or city precinct)?".
- (13)(12) The status of any moist territory approving limited alcoholic beverage sales through a previous election held under KRS 242.123, **242.1238**, 242.124, 242.1242, **242.1243**,~~[and]~~ 242.1244, **and Sections 19 and 27 of this Act**, or any other limited local option election, shall not be affected by any outcome of any *wet* election held under this section. A territory's *wet or* moist status may only be changed **to dry status** by a local option election **in which the majority of the votes are not in favor of**~~on~~ the original same *wet or* moist election proposition.

➔Section 27. KRS 242.1292 is amended to read as follows:

- (1) The provisions of this section shall be applicable only in any city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census notwithstanding any other provisions of this chapter relating to the wet or moist status in any county, city, or territory which may be to the contrary.
- (2) In any city meeting the population requirements of subsection (1) of this section that is dry or moist in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection (11) of this section, the governing body of the city shall by ordinance designate the precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in the precinct or precincts to take the sense of the people of each precinct as to making that precinct wet territory. A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of precinct)?'".
- (3) The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (3) **of Section 20 of this Act**~~(5) of KRS 242.030~~.
- (4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?".
- (5) If a majority of the votes cast in any limited sale precinct in which an election is held under this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.
- (6) The governing body of the city shall adopt the comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages, including, but not limited to, distilled spirits and malt beverages, within a limited sale precinct as set forth in this section. In relation to the ordinances established by a city meeting the population requirements of subsection (1) of this section under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or administrative regulations promulgated by the board under those statutes. In its discretion the governing body shall provide without review by the board that:
 - (a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.
 - (b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1) license in each limited sale precinct may be reserved for any newly established hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel, or inn meeting the~~[aforestated]~~ requirements **of this section** or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. Additional licenses to sell alcoholic beverages by

the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members of bona fide fraternal or veterans organizations.

- (7) The governing body of the city may also incorporate in the regulatory ordinance any other reasonable rules and regulations as it deems, necessary or desirable for the proper administration and enforcement of this section, for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070.
- (8) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, once any limited sale precinct has been established as wet territory, the governing body of the city may impose a regulatory license fee upon the gross receipts of each establishment located *in the precinct*~~therein~~ and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate~~as shall be~~ reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.
- (9) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.
- (10) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of the entire city or the entire county becoming dry, wet, or moist, the status of that question in a limited sale precinct shall be determined in the following manner:
 - (a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if the limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and if so the voters of any limited sale precinct shall not vote in the election.
 - (b) If the limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?". No other question shall be presented to the voters of any limited sale precinct.
 - (c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages *in the precinct*~~therein~~ as a limited sale precinct, then the status shall continue within the precinct, except that if the city or the county in which the limited sale precinct is located votes wet in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and~~thereafter~~ the status of the precinct shall be the same as that in effect for the remainder of the city or the county.
- (11) Any precinct located entirely within any city meeting the population requirements of subsection (1) of this section that is dry in all or part of the city shall be designated as a limited sale precinct by the governing body of the city if:
 - (a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making this determination, the governing body may hold hearings, examine witnesses, or receive evidence as it believes necessary or desirable for the purpose; or
 - (b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate the precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state *the voter's*~~this or her~~ post office address and the correct date upon which *the voter's*~~this or her~~ name is signed. Upon receipt of the petition, the mayor shall present it to the governing body of the city at its next regularly scheduled meeting and, after verifying that the petition is in compliance with the requirements of this section, the

governing body shall ~~forthwith~~ by ordinance ***immediately*** designate the precinct to be a limited sale precinct.

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A sampling license may be issued to the holder of:*
 - (a) *A quota retail drink license;*
 - (b) *A quota retail package license;*
 - (c) *An NQ1 license;*
 - (d) *An NQ2 license; or*
 - (e) *A distiller's license.*
- (2) *A sampling license shall authorize the licensee to allow customers to sample, free of charge, distilled spirits and wine under the following conditions:*
 - (a) *Sampling shall be permitted only on licensed premises and by licensees holding a sampling license, during regular business hours;*
 - (b) *A distillery shall provide samples as authorized by Section 32 of this Act; and*
 - (c) *All other licensees shall limit a customer to:*
 1. *One (1) ounce of distilled spirits samples per day; and*
 2. *Six (6) ounces of wine samples per day.*
- (3) *Retailers holding a sampling license shall:*
 - (a) *Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a free sampling event; and*
 - (b) *Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.*
- (4) *In addition to free sampling, a quota retail package licensee holding a sampling license may also sell sample distilled spirits and wine under the following conditions:*
 - (a) *Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours; and*
 - (b) *A licensee shall limit a customer to purchased samples totaling no more than:*
 1. *Two (2) ounces of distilled spirits per day; and*
 2. *Nine (9) ounces of wine per day.*
- (5) *A quota retail package licensee holding both a sampling license and a nonquota retail malt beverage package license may also sell samples of malt beverages under the following conditions:*
 - (a) *Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours;*
 - (b) *A licensee shall limit a customer to no more than sixteen (16) ounces of malt beverages per day;*
 - (c) *Nothing in this subsection shall allow a quota retail package licensee to provide a customer samples of malt beverages free of charge;*
 - (d) *The retail price of a sample shall not be less than a licensee's purchase cost of the sample; and*
 - (e) *A licensee, supplier, or individual shall not request, require, or allow a distributor to provide malt beverages free of charge or participate in any activity allowed under this subsection.*
- (6) *No customer shall be allowed to receive a combination of free and purchased samples totaling more than:*
 - (a) *Two (2) ounces of distilled spirits per day; and*
 - (b) *Nine (9) ounces of wine per day.*
- (7) *Free and paid samples provided under this section shall not constitute drink sales.*

➔Section 29. KRS 243.020 is amended to read as follows:

- (1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless ***the person***~~he or she~~ holds ***or is an agent, servant, or employee of a person who holds*** the kind of license that authorizes the act.
- (2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.
- (3) Except as ***permitted by***~~provided in~~ KRS 243.036, ***Section 33 of this Act, Section 54 of this Act, Section 55 of this Act,*** and 243.260, a person, conducting a place of business patronized by the public, who ***is not a licensee authorized***~~does not hold a license~~ to sell ***alcoholic***~~distilled spirits, wine, or malt~~ beverages, shall not permit any person to sell, barter, loan, give away, or drink ***alcoholic***~~distilled spirits, wine, or malt~~ beverages on the premises of ***the licensee's***~~his or her~~ place of business.
- (4) ***A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.***
- (5) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall not be stored or kept except upon the licensed premises of a ***licensee***~~person who is the holder of a license provided for in KRS 243.030~~.
- ~~(6)~~~~(5)~~ In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.

➔Section 30. KRS 243.025 is amended to read as follows:

- (1) All of the fees paid into the State Treasury for ***state*** licenses~~issued under KRS 243.030 and 243.040~~ shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage Control.
- (2) All fees associated with the department's server training program~~, except for board ordered fees,~~ shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.
- (3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241 ~~to~~, 242, 243, ~~and~~ 244. The moneys in the account shall not lapse at the close of the fiscal year.

➔Section 31. KRS 243.030 is amended to read as follows:

The following licenses that authorize traffic in distilled spirits and wine may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator. The licenses and their accompanying fees are as follows:~~The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:~~

- (1) Distiller's license:
 - (a) Class A, per annum\$3,090.00
 - (b) Class B (craft distillery), per annum\$1,000.00
- (2) Rectifier's license:
 - (a) Class A, per annum\$2,580.00
 - (b) Class B (craft rectifier), per annum.....\$825.00
- (3) Winery license, per annum\$1,030.00
- (4) Small farm winery license, per annum\$110.00
 - (a) Small farm winery off-premises retail license, per annum\$30.00
- (5) Wholesaler's license, per annum\$2,060.00
- (6) Quota retail package license, per annum\$570.00
- (7) Quota retail drink license, per annum\$620.00

- (8) Transporter's license, per annum\$210.00
- (9) Special nonbeverage alcohol license, per annum\$60.00
- (10) Special agent's or solicitor's license, per annum\$30.00
- (11) Bottling house or bottling house storage license,per annum\$1,030.00
- (12) Special temporary license, per event ~~\$100.00~~[\$90.00]
- (13) Special Sunday retail drink license, per annum\$520.00
- (14) Caterer's license, per annum\$830.00
- (15) Special temporary alcoholic beverage
auction license, per event ~~\$100.00~~[\$110.00]
- (16) Extended hours supplemental license, per annum\$2,060.00
- (17) Hotel in-room license, per annum\$210.00
- (18) Air transporter license, per annum\$520.00
- (19) Sampling license, per annum.....\$110.00
- (20) Replacement or duplicate license\$25.00
- (21) Entertainment destination *center* license, per annum\$7,730.00
- (22) Limited restaurant license, per annum.....\$780.00
- (23) Limited golf course license, per annum.....\$720.00
- (24) Small farm winery wholesaler's license, per annum\$110.00
- (25) Qualified historic site license ~~(includes distilled spirits, wine, and malt
beverages by the drink)~~, per annum\$1,030.00
- (26) Nonquota type 1 license, per annum\$4,120.00
- (27) Nonquota type 2 license, per annum.....\$830.00
- (28) Nonquota type 3 license, per annum.....\$310.00
- (29) Distilled spirits and wine storage license, per annum\$620.00
- (30) Out-of-state distilled spirits and wine supplier's license, per annum\$1,550.00
- (31) Limited out-of-state distilled spirits and
wine supplier's license, per annum\$260.00
- ~~(32) Micro out of state distilled spirits and
wine supplier's license, per annum\$10.00~~
- ~~(33)~~ Authorized public consumption license, per annum.....\$250.00
- ~~(33)~~~~(34)~~ A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.
- ~~(34)~~~~(35)~~ Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.
- ~~(35)~~~~(36)~~ The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

➔Section 32. KRS 243.0305 is amended to read as follows:

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) A wholesaler registered to distribute the brands of any distiller may permit the distiller to deliver a souvenir package directly from the distillery proper to any portion of the distillery premises. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
- (3) A distiller may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of four and one-half (4-1/2) liters per visitor per day.
- (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.
- (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:
 - (a) Sampling shall be permitted only on the licensed premises during regular business hours;
 - (b) A distillery shall not charge for the samples; and
 - (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces of samples per visitor per day.
- (8) In accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
 - (a) Hold an ~~NQ2[NQ3]~~ retail drink license for the sale of alcoholic beverages on the distillery premises. Notwithstanding KRS 243.110, a licensed distiller may also hold any of the retail licenses available to it under this section;
 - (b) Sell alcoholic beverages produced or bottled on the premises of its Kentucky licensed distillery for on-premises purposes without having to transfer physical possession of those alcoholic beverages to a licensed wholesaler if:
 1. All direct shipments are invoiced from the distiller to its wholesaler and from the wholesaler to the distiller; and
 2. All products directly shipped are included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.890 and 243.990; and
 - (c) Employ persons to engage in the sale or service of alcohol under an ~~NQ2[NQ3]~~ license, if each employee completes the department's Server Training in Alcohol Regulations program within thirty (30) days of ~~the~~ beginning ~~of his or her~~ employment.
- (9) Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:
 - (a) The provisions of KRS Chapters 241 to 244;
 - (b) The administrative regulations of the board; and
 - (c) Regulation by the board at all the distiller's licensed premises.
- (10) Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.

➔Section 33. KRS 243.033 is amended to read as follows:

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.

- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall **authorize alcoholic beverage sales at**~~be issued to~~ a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
- (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and **Section 104 of this Act**~~244.310~~;
 - (b) Transport, sell, serve, and deliver **alcoholic**~~mal~~ beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and **alcoholic**~~mal~~ beverages for a customer and **the customer's**~~his or her~~ guests, in:
 1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and **alcoholic**~~mal~~ beverages;~~or~~
 2. ***Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or***
 3. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and **alcoholic**~~mal~~ beverages;
 - ~~(c) Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his or her guests, in:~~
 - ~~1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;~~
 - ~~2. Cities and counties established as wet territory permitting distilled spirits and wine drink sales by ordinance under KRS 243.072 if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or~~
 - ~~3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;~~
 - ~~(d) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and~~
 - ~~(d)(e) Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer~~~~host~~ for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.
- (5) A caterer licensee shall not cater **alcoholic beverages**~~distilled spirits and wine~~ on Sunday except in territory in which the Sunday sale of **alcoholic beverages**~~distilled spirits and wine~~ is permitted under the provisions of KRS 244.290 and~~244.295. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS~~ 244.480.
- (6) ***A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.***
- (7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure,

only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

- (8)~~[(7)]~~ The caterer licensee shall post a copy of *the licensee's*~~[his or her]~~ caterer's license at the location of the function for which alcoholic beverages are catered.
- ~~[(8) The name and license numbers of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.]~~
- (9) All restrictions and prohibitions applying to a ~~[distilled spirits and wine]~~ quota retail drink licensee **and an NQ4 retail malt beverage drink licensee** not inconsistent with this section shall apply to the caterer licensee.
- (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

➔Section 34. KRS 243.034 is amended to read as follows:

- (1) A limited restaurant license may be issued to an establishment meeting the definition criteria established in KRS 241.010(35) as long as the establishment is within:
- (a) Any wet territory; or
 - (b) Any moist precinct that has authorized the sale of alcoholic beverages under KRS 242.1244.
- (2) A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell **alcoholic**~~[distilled spirits, wine, or malt]~~ beverages by the package.
- (3) The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross receipts from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.
- (4)~~[(a)]~~ A limited restaurant as defined by *subsection (35)(a) of Section 1 of this Act*~~[KRS 241.010(35)(b)]~~ shall:
- ~~(a) [1.]~~ Only sell **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages incidental to the sale of a meal; and
 - ~~(b) [2.]~~ Not have an open bar and shall not sell **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages to any person who has not purchased or does not purchase a meal.
 - ~~[(b) Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one half (1/2) hour after the meal is completed.]~~

➔Section 35. KRS 243.0341 is amended to read as follows:

- (1) Notwithstanding any other provision of law, any city or county that conducted an election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of alcoholic beverages in restaurants and dining facilities seating one hundred (100) persons or more **or any city with limited sale precincts created pursuant to Section 27 of this Act** may elect to act under this section.
- (2) Upon a determination by the legislative body of a city or county that:
- (a) An economic hardship exists within the city or county; and
 - (b) Expanded sales of alcoholic beverages by the drink could aid in economic growth;
- the city or county may, after conducting a public hearing that is noticed to the public in accordance with the KRS Chapter 424, adopt an ordinance authorizing by the drink sales of alcoholic beverages in restaurants and dining facilities containing seating for at least fifty (50) persons and meeting the requirements of subsection (3) of this section.
- (3) The ordinance enacted by a city or county pursuant to subsection (2) of this section shall authorize the sale of alcoholic beverages under the following limitations:
- (a) Sales shall only be conducted in restaurants and other dining facilities meeting the requirements of *subsection (35)(a) of Section 1 of this Act*~~[KRS 241.010(35)(b)]~~; and

- (b) The provisions of KRS 243.034 shall apply to any restaurant or dining facility operating under a license issued pursuant to this section.
- (4) A city or county acting under this section may allow limited restaurant sales as defined in KRS 241.010(35).
- (5) The enactment of an ordinance under this section shall not:
 - (a) Modify the city's or county's ability to issue a limited restaurant license to restaurants or other dining facilities meeting the requirements of *subsection (35)(b) of Section 1 of this Act*~~[KRS 241.010(35)(a)]~~; or
 - (b) Affect, alter, or otherwise impair any license previously issued to a restaurant or dining facility meeting the requirements of *subsection (35)(b) of Section 1 of this Act*~~[KRS 241.010(35)(a)]~~.

➔Section 36. KRS 243.035 is amended to read as follows:

~~The [In addition to the licenses prescribed by KRS 243.030, a bottling house license may be issued by the director of The Division of]~~ distilled spirits *administrator may issue a bottling house or bottling house storage license*~~[, upon payment of the fee set forth in KRS 243.030. The license may be issued]~~ only to persons who are authorized under this chapter to store or warehouse distilled spirits or wine. The bottling house *or bottling house storage* license shall authorize the licensee to bottle *and store* distilled spirits on the premises designated in the license. The holder of a bottling house *or bottling house storage* license may also hold a distilled spirits and wine storage license.

➔Section 37. KRS 243.036 is amended to read as follows:

- (1) A special temporary alcoholic beverage auction license may be issued to a charitable *or nonprofit* organization.
- (2) A special temporary alcoholic beverage auction license shall authorize the *holder*~~[charitable organization]~~ to:
 - (a) Purchase, transport, receive, possess, store, sell, and deliver alcoholic beverages to be sold *by auction or raffle or consumed* at charity *or nonprofit* events~~[by auction or by raffle]~~;
 - (b) Purchase, transport, receive, possess, store, sell, and deliver limited specially labeled bottles of *alcoholic*~~[distilled spirits, wine, and malt]~~ beverages to be sold at charity *or nonprofit* events~~[in the manner prescribed by administrative regulations promulgated by the board]~~;
 - (c) Obtain alcoholic beverages from distillers, rectifiers, wineries, small farm wineries, brewers, microbreweries, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity *or nonprofit events*~~[auctions or raffles]~~; and
 - (d) Receive payment for alcoholic beverages sold at *events*~~[auctions or by raffles]~~.
- (3) Each alcoholic beverage auction or raffle conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244 and the administrative regulations issued under those chapters and shall be authorized only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the county or municipality.
- (4) The location at which the alcoholic beverages are auctioned,~~[or]~~ raffled, *or consumed* under this section shall not constitute a public place for the purpose of KRS Chapter 222. *Charitable or nonprofit events*~~[Alcoholic beverage auctions or raffles]~~ may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary alcoholic beverage auction license shall post a copy of the license at the location of the *event*~~[auction or raffle. During this period not more than one (1) auction shall be held]~~.
- (5) A special temporary alcoholic beverage auction license shall not be issued for any period longer than thirty (30) days~~[. During this period not more than one (1) auction shall be held]~~.
- (6) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a charitable *or nonprofit* organization possessing a special temporary alcoholic beverage auction license under this section.
- (7) All restrictions and prohibitions applying to an alcoholic beverage retail package and alcoholic beverage by the drink license, not inconsistent with this section, shall apply to a special temporary alcoholic beverage auction license.

➔Section 38. KRS 243.037 is amended to read as follows:

- (1) Except as where specifically authorized by statute, a retailer licensed to sell distilled spirits or wine by the drink shall only be permitted to sell or serve distilled spirits and wine by the drink at one (1) main bar, counter, or similar contrivance at the licensed premises.
- (2) A retailer may have necessary service bars, if they are not located in any room in which the members or guests or patrons of the place are invited or permitted to come. No distilled spirits or wine shall be served at service bars.
- (3) A supplemental bar license shall authorize the licensee to sell and serve distilled spirits and wine by the drink at retail from an additional location other than the main bar. A supplemental bar license is a nonquota license and shall not be transferable to other premises.
- (4) ~~The~~ **A supplemental bar license shall not be issued unless:**
 - (a) ~~The licensee applies to the state distilled spirits director and meets all requirements for obtaining a supplemental bar license; and~~
 - (b) ~~The licensee pays a~~ **fee for a supplemental license shall be the same as** ~~identical to~~ the fee for the primary license authorizing retail distilled spirits and wine drink sales for each of up to five (5) supplemental bar licenses. There shall be no ~~fee~~ **charge** for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (5) A license authorizing retail malt beverage sales, by the drink or by the package, authorizes the licensee to sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

➔Section 39. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the ~~director of the Division of~~ malt beverages **administrator**, the fees for which shall be:

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| (1) Brewer's license, per annum | \$2,580.00 |
| (2) Microbrewery license, per annum | \$520.00 |
| (3) Distributor's license, per annum | \$520.00 |
| (4) Nonquota retail malt beverage package license, per annum | \$210.00 |
| (5) Brew on premises license, per annum | \$520.00 |
| (6) Out-of-state malt beverage supplier's license, | |
| per annum | \$1,550.00 |
| (6)(7) Malt beverage storage license, per annum | \$260.00 |
| (7)(8) Replacement or duplicate license, per annum | \$25.00 |
| (8)(9) Limited out-of-state malt beverage supplier's license, | |
| per annum | \$260.00 |
| (9)(10) Nonquota type 4 malt beverage drink license, | |
| per annum | \$210.00 |
| (10)(11) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50). | |
| (11)(12) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045. | |
| (12)(13) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241 to 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board. | |

Applicants for special licenses provided for under the authority granted in subsection ~~(8)(9)~~ of this section may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new

application for a license under this section. The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

➔Section 40. KRS 243.042 is amended to read as follows:

- (1) A qualified historic site license may be issued to any establishment meeting the criteria established in KRS 241.010 as long as the establishment is within:
 - (a) Any wet territory; or
 - (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.1242.
- (2) A qualified historic site license shall authorize the licensee to:
 - (a) Sell **alcoholic**~~{distilled spirits, wine, and malt}~~ beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037;
 - (b) Sell **alcoholic**~~{distilled spirits, wine, and malt}~~ beverages by the drink to patrons at public or private functions held on the premises; and
 - (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and **Section 104 of this Act**~~{244.310}~~.

~~{(3) Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.}~~

➔Section 41. KRS 243.045 is amended to read as follows:

- (1) A transitional license may be issued by **the state administrator or administrators**~~{the director of the Division of Malt Beverages or the director of the Division of Distilled Spirits}~~ during the time a transfer of an ongoing business is being processed under the following conditions:
 - (a) The purchaser shall file an application for a permanent license with the appropriate local alcoholic beverage authority and with the department;
 - (b) The purchaser shall advertise its intention to apply for a license pursuant to KRS 243.360; and
 - (c) The purchaser shall pay all application fees for the permanent license.
- (2) If the above requirements are met, **the state administrator or administrators**~~{the director of the Division of Malt Beverages or the director of the Division of Distilled Spirits}~~, as appropriate, **may**~~{shall have the discretion to}~~ issue a transitional license with a term of up to sixty (60) days, plus one (1) thirty (30) day **renewal license**~~{extension period}~~, to the purchaser for a processing fee set forth in KRS 243.030 to 243.040. All transitional licenses immediately expire upon the issuance to the purchaser of one (1) or more permanent licenses.
- (3) Upon completion of the sale of the business, the purchaser shall not operate the business on the seller's license.
- (4) The transitional license shall not be transferable or used for an application to move a business from one (1) location to another location.
- (5) **The transitional license shall entitle the holder to the same privileges and restrictions of the permanent license or licenses for which the holder applied under subsection (1)(a) of this section.**

➔Section 42. KRS 243.050 is amended to read as follows:

- (1) **The state administrators**~~{Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department}~~ may issue an extended hours supplemental license for the retail sale of alcoholic beverages by the drink to the holder of an NQ1 retail drink license, a qualified historic site license, or a license located in a commercial airport. The **board**~~{department}~~ may, by administrative regulation or special conditions of an extended hours supplemental license, establish the days when the supplemental license will be valid, including Sundays~~{after 1 p.m.}~~, and establish **any**~~{such}~~ restrictions on the use of the license **to**~~{as will}~~ ensure that it will be primarily for the benefit of **holders of NQ1 retail drink licenses, qualified historic site licenses, and visitors**~~{the convention business, the horse racing industry, passengers}~~ at large commercial airports~~{and rail systems, the automobile racing industry, and qualified historic sites}~~.

- (2) (a) A licensee located in territory which has authorized Sunday retail distilled spirits and wine drink sales under KRS 244.290 ~~or 244.295~~, either by local option election or by local government ordinance, shall obtain a Sunday retail drink license in order to sell distilled spirits and wine on Sunday.
- (b) A retail licensee holding a Sunday retail drink license is authorized to remain open and sell distilled spirits and wine by the drink for consumption on the premises only during those times and hours permitted by local government ordinance.
- (c) *A licensee located in territory that has authorized Sunday retail distilled spirits and wine package sales under Section 106 of this Act or retail malt beverage package or drink sales under Section 109 of this Act is not required to hold a Sunday retail drink license to authorize these sales.*

➔Section 43. KRS 243.060 is amended to read as follows:

- (1) The fiscal court of ~~any~~~~each~~ county or a consolidated local government in which traffic in alcoholic beverages is ~~permitted~~~~not prohibited~~ under KRS Chapter 242 may ***only issue the following alcoholic beverage licenses and corresponding maximum fees***~~impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator~~. The license fees are subject to the provisions of subsections (2) to ~~(4)~~~~(6)~~ of this section, and shall not exceed the following:
- (a) Quota retail package license, per annum:
1. In counties containing a consolidated local government.....\$1,200.00
 2. In all other counties.....\$1,000.00
- (b) Quota retail drink license, per annum:
1. In counties containing a consolidated local government.....\$1,600.00
 2. In all other counties.....\$1,000.00
- (c) Nonquota type 2 retail drink license ~~(includes distilled spirits, wine, and malt beverages)~~, per annum:
1. In counties containing a consolidated local government.....\$1,800.00
 2. In all other counties.....\$1,000.00
- (d) Nonquota type 3 retail drink license ~~(includes distilled spirits, wine, and malt beverages)~~, per annum.....\$300.00
- (e) Special temporary license, per event:
1. In counties containing a consolidated local government.....\$266.66
 2. In all other counties.....\$166.66
- (f) Special Sunday retail drink license, per annum\$300.00
- (g) Nonquota retail malt beverage package license, per annum\$400.00
- (h) Nonquota type 4 retail malt beverage drink license, per annum.....\$400.00
- (i) Limited restaurant license ~~(includes distilled spirits, wine, and malt beverages)~~, per annum:
1. In counties containing a consolidated local government.....\$2,000.00
 2. In all other counties.....\$1,400.00
- (j) Limited golf course license ~~(includes distilled spirits, wine, and malt beverages)~~, per annum:
1. In counties containing a consolidated local government.....\$2,000.00
 2. In all other counties.....\$1,400.00
- (k) Authorized public consumption license, per annum\$250.00
- (l) Qualified historic site license, per annum.....\$1,030.00***
- (2) The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsection (1) of this section:

- (a) Quota retail package license: retail package liquor license;
 - (b) Quota retail drink license: retail drink license;
 - (c) Nonquota type 2 retail drink license: restaurant drink license;
 - (d) Nonquota retail malt beverage package license: retail malt beverage license;
 - (e) Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
 - (f) Limited restaurant license; and
 - (g) Limited golf course license.
- (3) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (4) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).
- (5) ***A county shall not issue county licenses or impose fees under this section to any person who holds a city license issued under Section 44 of this Act.*** ~~Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.~~
- ~~(6) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.~~

➔SECTION 44. KRS 243.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) ***The legislative body of any city or a consolidated local government in which traffic in alcoholic beverages is permitted under KRS Chapter 242 may only issue the following alcoholic beverage licenses and corresponding maximum fees. The license fees are subject to the provisions of subsections (2), (3), and (4) of this section, and shall not exceed the amounts specified in this subsection:***
- (a) ***Distiller's license, per annum\$500.00***
 - (b) ***Rectifier's license:***
 - 1. ***Class A, per annum\$3,000.00***
 - 2. ***Class B (craft rectifier), per annum\$960.00***
 - (c) ***Wholesaler's distilled spirits and wine license, per annum\$3,000.00***
 - (d) ***Quota retail package license, per annum:***
 - 1. ***In counties containing a consolidated local government\$1,200.00***
 - 2. ***In all other counties\$1,000.00***
 - (e) ***Quota retail drink license, per annum:***
 - 1. ***In counties containing a consolidated local government\$1,600.00***
 - 2. ***In all other counties\$1,000.00***
 - (f) ***Special temporary license, per event:***
 - 1. ***In counties containing a consolidated local government\$266.66***
 - 2. ***In all other counties\$166.66***
 - (g) ***Nonquota type 1 retail drink license, per annum\$2,000.00***
 - (h) ***Nonquota type 2 retail drink license, per annum:***
 - 1. ***In counties containing a consolidated local government\$1,800.00***
 - 2. ***In all other counties\$1,000.00***
 - (i) ***Nonquota type 3 retail drink license, per annum\$300.00***

- (j) *Special temporary alcoholic beverage auction license, per event*\$100.00
- (k) *Special Sunday retail drink license, per annum*\$300.00
- (l) *Extended hours supplemental license, per annum*\$2,000.00
- (m) *Caterer's license, per annum*\$800.00
- (n) *Bottling house or bottling house storage license, per annum*\$1,000.00
- (o) *Brewer's license, per annum*\$500.00
- (p) *Microbrewery license, per annum*\$500.00
- (q) *Malt beverage distributor's license, per annum*\$400.00
- (r) *Nonquota retail malt beverage package license, per annum*\$200.00
- (s) *Nonquota type 4 retail malt beverage drink license, per annum*.....\$200.00
- (t) *Limited restaurant license, per annum:*
 - 1. *In counties containing a consolidated local government*\$1,800.00
 - 2. *In all other counties*\$1,200.00
- (u) *Limited golf course license, per annum:*
 - 1. *In counties containing a consolidated local government*\$1,800.00
 - 2. *In all other counties*\$1,200.00
- (v) *Authorized public consumption license, per annum*.....\$250.00
- (w) *Qualified historic site license, per annum*.....\$1,030.00
- (2) *The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsection (1) of this section:*
 - (a) *Quota retail package license: retail package liquor license;*
 - (b) *Quota retail drink license: retail drink license;*
 - (c) *Nonquota type 1 retail drink license: convention center or convention hotel complex license;*
 - (d) *Nonquota type 2 retail drink license: restaurant drink license;*
 - (e) *Nonquota retail malt beverage package license: retail malt beverage license;*
 - (f) *Nonquota type 4 retail malt beverage drink license: retail malt beverage license;*
 - (g) *Limited restaurant license; and*
 - (h) *Limited golf course license.*
- (3) *The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.*
- (4) *The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).*

➔Section 45. KRS 243.075 is amended to read as follows:

- (1) (a) *A qualified city or a county containing a*~~Notwithstanding the provisions of KRS 243.060 and 243.070, in any~~ *qualified city that is wet through*~~in which the discontinuance of prohibition is effective by virtue of~~ *a local option election held under KRS Chapter 242[, the governing body of the city and the governing body of the county containing a qualified city] is authorized to impose a regulatory license*

fee upon the gross receipts of the sale of alcoholic beverages of each establishment *located in the city or county*~~[therein]~~ licensed to sell alcoholic beverages.

- (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate *that is*~~[as shall be]~~ reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
- (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
 - 1. A credit against a regulatory license fee~~[in a city]~~ shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
 - 2. In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) (a) ~~[Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.060 or 243.070,]~~A city or county that is moist through a local option election held under KRS 242.1244~~[, or that issues licenses under KRS 243.072]~~ may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located *in the city or county*~~[therein]~~ and licensed to sell *alcoholic*~~[distilled spirits, wine, or malt]~~ beverages by the drink for consumption on the premises.
- (b) The regulatory license fee may be levied annually at a rate *that is*~~[as shall be]~~ reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
- (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.
- (d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (3)~~[(a)]~~ For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
- ~~[(b)]~~ ~~For any new ordinance enacted pursuant to KRS 243.072 after July 15, 2014, the fee authorized by subsection (2) of this section shall be enacted within two (2) years of the date of the enactment of an ordinance pursuant to KRS 243.072.]~~
- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
 - (a) Policing;
 - (b) Regulation; and
 - (c) Administration;
 as a result of the sale of alcoholic beverages within the city or county.
- (5) (a) ~~The [Kentucky Department of]~~ Alcoholic Beverage Control **Board** shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.
- (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.

- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:
 - (a) Deposited into a segregated fund of the city or county;
 - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
 - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.
- (7) Any city or county found by a court to have violated the provisions of this section shall:
 - (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;
 - (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
 - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.
- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.
- (9)
 - (a) As used in this section, "qualified city" means a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.
 - (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the third or fourth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 46. KRS 243.082 is amended to read as follows:

- (1) A "Nonquota type 1" or "NQ1" retail drink license may be issued to an applicant operating as, or in:
 - (a) A convention center or a convention hotel complex;
 - (b) A horse racetrack;
 - (c) An automobile racetrack;
 - (d) A railroad system;
 - (e) A commercial airlines system or charter flight system; or
 - (f) A state park.
- (2) **Any licensee holding an NQ1 retail drink license located in** a qualifying convention center or a convention hotel complex, horse racetrack, ~~or~~ an automobile racetrack, **or state park** ~~holding an NQ1 retail drink license~~ may purchase, receive, possess, and sell **alcoholic** ~~distilled spirits, wine, and malt~~ beverages at retail by the drink for consumption on the licensed premises. The license shall permit all **alcoholic** ~~distilled spirits, wine, or malt~~ beverage sales on the premises without additional supplemental licenses. The licensee shall purchase **alcoholic** ~~distilled spirits, wine, or malt~~ beverages only from licensed wholesalers or distributors. The holder of an NQ1 retail drink license under this section shall **store alcoholic beverages in the manner prescribed in Section 104 of this Act** ~~comply with the requirements of KRS 243.250. An NQ1 retail drink license held under this section shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.~~
- (3) ~~Notwithstanding any other law, if~~ A qualifying convention center or a convention hotel complex holding an NQ1 retail drink license may also hold a supplemental hotel in-room service license.
- (4) A qualifying railroad system holding an NQ1 retail drink license may purchase, receive, possess, and sell **alcoholic** ~~distilled spirits, wine, and malt~~ beverages at retail by the drink or by the package, upon any train that includes a dining car and is operated by the licensee in the state. Sales shall be made only while the train is

in motion. ~~[Notwithstanding any other law,]~~ A railroad system holding an NQ1 retail drink license may sell alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from nonresidents.

- (5) A qualifying commercial airlines system or charter flight system holding an NQ1 retail drink license may purchase, receive, possess, and sell **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages at retail by the drink, and by miniature bottle, for consumption upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.
- (6) An NQ1 retail drink license may be issued to any qualifying applicant within a state park meeting the criteria established in KRS 241.010 so long as the state park is located, in whole or in part, within:
 - (a) Any wet territory; or
 - (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.022.

~~[(7) Any licensee holding an NQ1 retail drink license located in a qualifying state park may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses. The licensee shall only purchase distilled spirits, wine, or malt beverages from licensed wholesalers or distributors. The holder of an NQ1 retail drink license under this subsection shall comply with the requirements of KRS 243.250. An NQ1 retail drink license held under this subsection shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.]~~

➔Section 47. KRS 243.084 is amended to read as follows:

- (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to ***an applicant operating as, or in:***
 - (a) A hotel that:
 1. Contains at least fifty (50) sleeping units; ***and***
 - 2.~~[Contains dining facilities for at least fifty (50) persons; and~~
 - 3.~~]~~ Receives from its total food and **alcoholic** beverage sales at least fifty percent (50%) of its gross receipts from the sale of food;
 - (b) A restaurant~~[with a minimum seating for fifty (50) consumers at tables];~~
 - (c) An airport;~~[or]~~
 - (d) A riverboat;
 - (e) ***A distiller; or***
 - (f) ***A business located within, or adjacent to, an entertainment destination center licensed premises.***
- (2) A ***holder of***~~[qualifying hotel, restaurant, airport, or riverboat holding]~~ an NQ2 retail drink license may purchase, receive, possess, and sell **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase **alcoholic**~~[distilled spirits, wine, or malt]~~ beverages only from licensed wholesalers or distributors. ***A distiller may purchase its own products for retail drink sales under Section 32 of this Act***~~[An NQ2 retail drink license shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package].~~ The holder of an NQ2 retail drink license shall ***store alcoholic beverages in the manner prescribed in Section 104 of this Act***~~[comply with the requirements of KRS 243.250].~~
- (3) (a) ***To qualify for***~~[A riverboat holding]~~ an NQ2 license, ***a***~~[may sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the premises of the riverboat. The]~~ riverboat shall have a regular ***or alternative*** place of mooring in a wet county or city of this state.

~~[(b) A riverboat that has a regular place of mooring outside this state, may be licensed if the boat has an alternative regular place of mooring that qualifies under paragraph (a) of this subsection.~~

~~[(c) An NQ2 license issued under this subsection shall not be transferable to another riverboat, vessel, or other premises.]~~

~~(b)(d)~~ If a riverboat moors or makes landfall in a location other than its regular or alternate regular place of mooring, all **alcoholic**~~[distilled spirits, wine, and malt]~~ beverages shall be kept locked.

~~(c)(e)~~ A riverboat licensed under this subsection shall not take on or discharge passengers when mooring or making landfall in dry option territory.

~~[(f) A riverboat NQ2 licensee shall comply with the license restrictions governing licensed premises in the regular place of mooring or alternative place of mooring.]~~

~~(4) An NQ2 retail drink license shall not be issued to any restaurant or any dining facility in a hotel, unless the applicant can demonstrate to the director or administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total food and alcoholic beverage receipts of the restaurant or dining facility for the license period.]~~

➔Section 48. KRS 243.086 is amended to read as follows:

(1) A "Nonquota type 3" or "NQ3" retail drink license may be issued to ***an applicant operating as, or in:***

(a) A private club in existence for longer than one (1) year prior to the license application;

(b) A dining car; ***or***

(c) A bed and breakfast~~[-or~~

~~(d) A distiller].~~

(2) ***The holder of an NQ3 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The holder of an NQ3 retail drink license shall store alcoholic beverages in the manner prescribed in Section 104 of this Act.***~~[An NQ3 retail drink license issued to a private club shall authorize the licensee to exercise the privileges of an NQ2 retail drink licensee, at the designated premises if the general public is excluded].~~

(3) ***A qualifying private club holding an NQ3 retail drink license shall exclude the general public from the licensed premises.***~~[An NQ3 retail drink license issued to a dining car shall authorize the licensee to exercise the privileges of an NQ2 retail drink licensee and shall also authorize the licensee to sell distilled spirits and wine by the package, only on the designated dining car identified in the NQ3 license].~~

(4) ***A qualifying bed and breakfast holding an NQ3 retail drink license***~~[issued to a bed and breakfast]~~ shall~~[authorize the licensee to exercise the privileges of an NQ2 retail drink licensee, but the licensee may]~~ only sell alcoholic beverages by the drink to paid overnight guests of the licensee.

~~[(5) An NQ3 retail drink license issued to a distiller shall authorize the licensee to exercise the privileges of an NQ2 retail drink license at the designated premises.]~~

➔Section 49. KRS 243.090 is amended to read as follows:

(1) All licenses issued by the department, except special event licenses, temporary licenses, or licenses listed in subsection (5) of this section, shall be valid for a period of no more than a year. The ***board***~~[department]~~ shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage Control.

(2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses issued after January 1, 2017, by a ***local***~~[county or city]~~ administrator shall be valid for a period of no more than a year and shall be renewable upon the date established by the department for the expiration of state licenses issued for premises located in that county or city. During the first year following July 15, 2016, if the new date for renewal for the licensee does not occur on the date established by the department for the expiration of the licensee's state license, the ***local***~~[city or county]~~ administrator shall either:

1. Prorate the cost of the renewed license by proportionally reducing the cost of the renewed license if the new date for the renewal occurs prior to the expiration of a previous license; or
2. Provide a prorated provisional local license to cover any period of time between the expiration of the previous license and the new date for renewal if the new date for renewal occurs after the expiration of the licensee's previous license.

- (b) Paragraph (a) of this subsection shall not apply to licenses issued by a consolidated local government, special event licenses, temporary licenses, or licenses listed in subsection (5) of this section.
- (3) When any person applies for a new license authorized under KRS Chapters 241 to 244, ~~the person~~~~he or she~~ shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (4) The renewal by the department of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.
- (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.
- (6) ***The department may deny license renewal if the licensee is a delinquent taxpayer as defined in KRS 131.1815.***

➔Section 50. KRS 243.100 is amended to read as follows:

An individual~~A natural person~~ shall not become a licensee~~under KRS 243.020 to 243.670~~ if ***the individual***~~he or she~~:

- (1)
 - (a) Has been convicted of any felony until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;
 - (b) Has been convicted of any misdemeanor described under KRS ***Chapter 218A***~~218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130~~ in the two (2) years immediately preceding the application;
 - (c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;
 - (d) Is under the age of twenty-one (21) years;
 - (e) Has had any license~~issued under this statute~~ relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any~~such~~ statute ***within KRS Chapters 241 to 244***, until the expiration of two (2) years from the date of the revocation or conviction; or
 - (f) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which ~~the~~~~this or her~~ application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.
- (2) A partnership, limited partnership, limited liability company, corporation,~~or~~ governmental agency, ***or other business entity recognized by law*** shall not be licensed if:
 - (a) Each ***principal owner, partner, member, officer, and director***~~member of the partnership or each of the directors, principal officers, or managers~~ does not qualify under subsection (1)(a), (b), (c),~~and~~ (d), ***and (e)*** of this section;
 - (b) It has had any license~~issued under this statute~~ relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any~~such~~ statute ***within KRS Chapters 241 to 244***, until the expiration of two (2) years from the date of the revocation or conviction; or
 - (c) ***Any principal owner, partner, member, officer, or director, or any business entity in which they were directly or indirectly interested,***~~It is a partnership or corporation, if any member of the partnership or any director, manager, or principal officer of the corporation~~ has had any license~~issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages,~~ revoked for cause or has been convicted of a violation of any~~such~~ statute ***within KRS Chapters 241 to 244***, until the expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.

- (3) The provisions of subsection (1)(a) and (b) shall apply to anyone applying for a new license under this chapter after July 15, 1998, but shall not apply to those who renew a license that was originally issued prior to July 15, 1998, or an application for a supplemental license where the original license was issued prior to July 15, 1998.
- (4) ***A person shall not evade license disqualification by applying for a license through or under the name of a different person. The state administrators shall examine the ownership, membership, and management of all license applicants, and shall deny the application if a disqualified person has a direct or indirect interest in the applicant's business. The department may issue administrative subpoenas and summonses to determine ownership of an applicant or to investigate alleged violations by a licensee.***

➔Section 51. KRS 243.110 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2)
 - (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and no person holding a license of any of those kinds shall apply for or hold a license of any other kind listed in KRS 243.040(1), (3), or (4).
 - (b) A brewery holding a license listed in ~~KRS~~ **subsection (5) or (8) of Section 39 of this Act** ~~[243.040(6) or (9)]~~ shall not apply for or hold a license listed in KRS 243.040(3) or (4).
- (3)
 - (a) The holder of a quota retail package license may also hold a quota retail drink license, ***an NQ1 retail drink license***, an NQ2 retail drink license, or a special nonbeverage alcohol license.
 - (b) The holder of a transporter's license may also hold a distilled spirits and wine storage license.
 - (c) The holder of a distiller's license may also hold a rectifier's license, a special nonbeverage alcohol license, ~~or a winery license,~~ ***or a small farm winery license***.
 - (d) A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same ***licensee*** ~~[person or corporation]~~.
 - (e) A Sunday retail drink license and supplemental license may be held by the holder of a primary license.
- (4) Any person may hold two (2) or more licenses of the same kind.
- (5) A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state ~~administrator~~ ~~[director]~~ shall examine the ownership, ***membership***, and management of applicants, and shall deny the application for a license if the applicant is substantially interested in a person or entity that holds an incompatible license.

➔Section 52. KRS 243.130 is amended to read as follows:

- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
 - (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
 - (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are packaged in retail containers;
 - (c) By wineries to rectifiers or other wineries, or to the holders of special nonbeverage alcohol licenses;
 - (d) By distillers, rectifiers, or wineries to wholesalers; or
 - (e) By distillers, rectifiers, or wineries for export out of the state.
- (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of ***the person's*** ~~[his or her]~~ residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any of ***its*** ~~[his or her]~~ products to any retailer or consumer in Kentucky.

- (3) *Employees of distillers, rectifiers, and wineries may sample the products produced by that manufacturer for purposes of education, quality control, and product development.*
- (4) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.
- (5)~~(4)~~ Rectifiers may purchase distilled spirits and wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by the law of the state of their residence and by the United States government, if the distillers or wineries are located in the United States, to make the sales.
- (6)~~(5)~~ Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.
- (7)~~(6)~~ Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of ~~such~~ a **warehouse** receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the **distilled spirits**~~same~~.

➔Section 53. KRS 243.150 is amended to read as follows:

- (1) A brewer's license shall authorize the licensee to engage in the business of a brewer at the premises specifically designated in the license, and to transport for itself only any malt beverage which the licensee is authorized by its license to manufacture or sell, but the licensee shall transport any malt beverages in accordance with the requirements provided by KRS 243.120 for distillers.
- (2) A brewer may sell any malt beverage produced under its license to:
- A licensed wholesaler from the licensed premises;
 - Any of its employees for home consumption;
 - Charitable or fraternal organizations holding group meetings, picnics, or outings; and
 - A customer, strictly limited to the following types of sales on the premises of a brewery located in wet territory:
 - By the drink sales for consumption on the premises only, to be ~~to be~~
 - ~~conducted in a taproom~~~~tap room~~ or similar space that is **located at the licensed**~~physically attached to the~~ brewery~~;~~ and
 - ~~Limited to no more than two hundred eighty eight (288) ounces per customer per day~~; and
 - Package sales for off-premises consumption only by** using a refillable, resealable **growler**~~vessel~~ ~~no larger than two (2) liters with a flip top or screw on lid into which a malt beverage is prefilled, filled, or refilled for off premises consumption only~~.
- (3) *A licensed brewer may buy malt beverages from another licensed brewer in this state or nonresident brewer authorized by the law of the state of its residence, and by the United States government if located in the United States, to make these sales;*
- (4) *Employees of a licensed brewer may sample the products produced by that manufacturer for purposes of education, quality control, and product development.*
- (5) A brewer may serve on the **licensed** premises of its brewery complimentary samples of malt beverages produced at the brewery in an amount not to exceed sixteen (16) ounces per patron per day, if the brewery is located in wet territory.

➔Section 54. KRS 243.155 is amended to read as follows:

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The ~~board~~~~department~~ shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.

- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
- (a) ***Engage in the business of a winery under the terms and conditions of KRS 243.120 and Section 52 of this Act. The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed one hundred thousand (100,000) gallons, in one (1) year.***~~Manufacture wines and bottle wines produced by that small farm winery;~~
 - (b) Bottle wines produced by that small farm winery and other licensed small farm wineries;
 - (c) Enter into an agreement with another licensed small farm winery under which it crushes, processes, ferments, bottles, or any combination of ~~these~~~~such~~ services, the grapes, fruits, or other agricultural products of the other small farm winery for ~~a~~~~one (1)~~ production year. The resulting wine shall be considered the ***product***~~wine~~ of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced under this paragraph from its annual production gallonage;
 - (d) ***If the licensed small farm winery or off-premises retail site premises is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under Section 22 of this Act:***
 1. Serve~~on the premises or at small farm winery off premises retail sites~~ complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day~~, if the small farm winery or its off premises retail site is located in wet territory~~; ***and***
 - 2.~~[(e)]~~ Sell by the drink ***for on-premises consumption*** or by the package~~on premises, at small farm winery off premises retail sites, and at fairs, festivals, and other similar types of events,~~ wine produced ***by it or by another***~~on the premises of the small farm winery or produced by a~~ licensed small farm winery, at retail to consumers~~if all sales sites are located in wet territory~~;
 - (e) ***Sell by the drink or by the package, at fairs, festivals, and other similar types of events, wine produced by it or by another licensed small farm winery, at retail to consumers if all sales occur in a wet territory;***
 - (f) Sell and transport wine produced ~~by it~~~~on the premises of the small farm winery~~ to ***licensed small farm winery off-premises retail sites***, wholesale license holders, and small farm winery license holders;
 - (g) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
 - (h) Ship to a customer wine produced by a small farm winery if:
 1. The wine is shipped by licensed common carrier; and
 2. The amount of wine shipped is limited to two (2) cases per customer per order.
- ~~(3) If a licensed small farm winery is located in a dry or moist territory, KRS 242.230 to 242.430 shall apply, unless a limited local option election is held in accordance with KRS 242.124. If the proposition under KRS 242.124 is approved, a licensed small farm winery within the precinct may sell wine in accordance with subsection (2) of this section.~~
- ~~(4)~~ If the requirements of ***Section 23 of this Act or*** KRS 244.290(5) relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section between the hours of 1 p.m. until the prevailing time for that locality.
- ~~(4)~~~~(5)~~ ~~{Other provisions of this chapter and KRS Chapter 244 notwithstanding,}~~ A small farm winery license holder may also hold an NQ2 retail drink license ~~or~~~~and~~ an NQ4 retail malt beverage drink license if:
- (a) ***The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under Section 22 of this Act; and***
 - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.

~~(5)(6)~~ This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 ~~to~~, ~~242, 243, and~~ 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.

~~(6)(7)~~ Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.

~~(7)(8)~~ Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.

(8) ***An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.***

➔Section 55. KRS 243.157 is amended to read as follows:

(1) A microbrewery license shall authorize the licensee to perform the following functions:

- (a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at ~~the~~~~[such]~~ microbrewery shall not exceed fifty thousand (50,000) barrels in one (1) year;
- (b) Serve on the premises complimentary samples of malt beverages produced by ~~the~~~~[such]~~ microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;
- (c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors;
- (d) Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with subsection (3)(b) and (c) of this section; and
- (e) Sell malt beverages produced on the premises of the microbrewery to consumers at fairs, festivals, and other similar types of events located in wet territory, in accordance with subsection (3)(b)2. and 3. and subsection (3)(c)2. and 3. of this section. The cumulative amount of malt beverages purchased by a consumer by the drink and by the package from a microbrewery under this paragraph shall not exceed two hundred eighty-eight (288) ounces per day.

(2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.

(3) In accordance with the provisions of this section, a microbrewery license holder may:

- (a) Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section;
- (b) Sell malt beverages produced on the premises of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:
 1. The microbrewery possesses a retail drink license for those premises;
 2. The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and
 3. The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery and sold at retail at the microbrewery under the provisions of its retail drink license. The report required under this subparagraph shall:
 - a. Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and
 - b. Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.

Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and

- (c) Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided that:
1. The microbrewery possesses a retail package license for those premises;
 2. The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and
 3. The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery under the provisions of its retail package license. The report required under this subparagraph shall:
 - a. Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and
 - b. Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.

Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and

4. The amount of malt beverages purchased by a customer during a visit to the microbrewery's premises does not exceed two hundred eighty-eight (288) ounces per customer per day.
- (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt beverages that are produced by the microbrewery at its licensed premises and:
- (a) Offered for sale by the microbrewery at that same premises under the microbrewery's retail drink or package license; or
 - (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of event as authorized under subsection (1)(e) of this section.

All other malt beverages produced by the microbrewery which are offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241 ~~to~~, ~~242~~, ~~243~~, ~~and~~ 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in subsection (3)(b) and (c) of this section.

- (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b) and (c) of this section shall collect and provide the licensed distributor all taxes due under KRS 243.884. The tax shall be computed at the rate of eleven percent (11%) of the wholesale value of the malt beverages sold by the microbrewery under the provisions of subsection (3)(b) and (c) of this section. For the purposes of this subsection "wholesale value" shall be determined in accordance with the contract required under subsection (3)(b)2. and (c)2. of this section, as applicable.
 - (b) The licensed distributor shall be responsible for remitting these amounts to the Commonwealth as provided in KRS 243.884(1). In accordance with KRS 243.886, the licensed distributor shall be allowed to deduct one percent (1%) of the tax remitted under this subsection, provided the amount due is not delinquent at the time of payment. Nothing in this subsection shall require the licensed distributor to verify the amount of taxes collected and provided by the microbrewery to be the true and accurate amount which is due according to KRS 243.884; nor shall the distributor be responsible for remittance of taxes due in the event the microbrewery fails to collect and provide the amounts owed under the provisions of this subsection.
 - (c) A microbrewery shall pay the excise tax on malt beverages in accordance with KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in KRS 243.720(3)(b).
- (6) A microbrewery shall not be located in dry *or moist* territory.
- (7) ***An employee of a microbrewery may sample the products produced by that microbrewery for purposes of education, quality control, and product development.***
- (8) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241 ~~to~~, ~~242~~, ~~243~~, ~~and~~ 244, nor from any rules of the board as established by administrative regulations, nor from

regulation by the board, except as expressly stated in this section. The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.

- (9)~~(8)~~ Nothing in this section shall be construed to vitiate the policy of this Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly three (3) tier system for the production and sale of malt beverages.

➔Section 56. KRS 243.160 is amended to read as follows:

- (1) A licensed wholesaler may purchase, receive, store, or possess distilled spirits and wine to sell at wholesale, from the licensed premises only, and to transport **to and** from the licensed premises~~for himself or herself~~ only~~any~~ alcoholic **beverages**~~beverage~~ that the wholesaler's license authorizes the licensee to sell. The wholesaler may transport:
 - (a) Beverages in the manner provided for manufacturers in KRS 243.120; and
 - (b) Distilled spirits and wine from a manufacturer's warehouse or from another licensed wholesaler's premises to ~~the~~~~his or her~~ licensed **wholesaler** premises~~, if consumer's spirits stamps have been properly affixed to the spirits or wine that the wholesaler transports~~.
- (2) The holder of a wholesaler's license may sell **and transport its**~~his or her~~ products to the holder of a special nonbeverage alcohol license.

➔Section 57. KRS 243.170 is amended to read as follows:

- (1) A wholesaler may sell, deliver, and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:
 - (a) Other wholesalers;
 - (b) Retailers; or
 - (c) A point out of the state to persons authorized by the law of the state of their residence, and by the United States government if located in the United States, to receive the distilled spirits and wine.
- (2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed distillers, rectifiers, wineries, or other wholesalers and from nonresidents authorized by the law of the states of their residence, and by the United States government if located in the United States, to make the sales. A wholesaler may not transport distilled spirits and wine from any point to ~~its~~~~his or her~~ own licensed premises, except as provided in **Section 58 of this Act**~~[KRS 243.200(12)]~~.
- (3) No wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any person in Kentucky who is not licensed to receive, possess, distribute, or sell distilled spirits and wine, and no wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any consumer. This section does not permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to nonresidents who are not licensed by their own states.
- (4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days. When the thirty (30) day period has passed without payment in full, no wholesaler shall sell to the licensee except for cash on delivery.

➔SECTION 58. KRS 243.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *A transporter's license may be issued as a primary license to a motor carrier authorized to transact business in the Commonwealth by the Transportation Cabinet or the Federal Motor Carrier Safety Administration or to another person engaged in business as a common carrier. A person holding a transporter's license may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.*
- (2) *The holder of a transporter's license shall cause each truck or vehicle to display the name of the licensee and the state license numbers in a manner prescribed by an administrative regulation promulgated by the board.*
- (3) *An application for a transporter's license shall include a statement that the applicant, if issued a license, shall allow any authorized investigators of the department to stop and examine the cargo of any truck or*

vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.

- (4) *Applicants for the transporter's license under this section, and their employees, shall be exempt from the residency requirements of Section 50 of this Act.*
- (5) *A licensee may move, within the same county, alcoholic beverages from one (1) of the licensee's licensed premises to another without a transporter's license. A licensee may move alcoholic beverages from one (1) of the licensee's licensed premises located in one (1) county to a licensed premises located in another county, without a transporter's license, with prior written approval of the administrator for good cause shown. The licensee shall keep and maintain, in one (1) of its licensed premises, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed premises to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.*
- (6) *Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the board. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.*

➔Section 59. KRS 243.212 is amended to read as follows:

- (1) An out-of-state distiller, wholesaler, rectifier, winery, small farm winery, importer for a distillery, winery, or small farm winery, or importer of a non-United States brand of distilled spirits or wine, ***who is the primary source of supply***, may obtain a distilled spirits and wine supplier's license for importing distilled spirits and wine into Kentucky if it is:
 - (a) Licensed to do business in the state in which it is located; and
 - (b) Registered with the Kentucky Department of Revenue.
- (2) An entity listed in subsection (1) of this section who wishes to import more than fifty thousand (50,000) gallons of distilled spirits or wine shall:
 - (a) Apply for an out-of-state distilled spirits and wine supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.030.
- (3) An entity listed in subsection (1) of this section who wishes to import ~~at least two thousand (2,000) gallons but~~ less than fifty thousand (50,000) gallons of distilled spirits or wine shall:
 - (a) Apply for a limited out-of-state distilled spirits and wine supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.030.
- ~~(4) An entity listed in subsection (1) of this section who wishes to import less than two thousand (2,000) gallons of distilled spirits or wine shall:~~
 - ~~(a) Apply for a micro out of state distilled spirits and wine supplier's license on an application provided by the department;~~
 - ~~(b) Submit documentation required by the application; and~~
 - ~~(c) Pay the annual fee required by KRS 243.030.~~
- ~~(5)~~ An out-of-state applicant shall be exempt from the notice requirements of KRS 243.360.

➔Section 60. KRS 243.215 is amended to read as follows:

- (1) An out-of-state brewer, distributor, importer for a brewer, or importer of a non-United States brand of malt beverage, ***who is the primary source of supply***, may obtain a malt beverage supplier's license for importing a malt beverage product into Kentucky if it is:

- (a) Licensed to do business in the state in which it is located; and
- (b) Registered with the Kentucky Department of Revenue.
- (2) An entity listed in subsection (1) of this section who wishes to import more than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:
 - (a) Apply for an out-of-state malt beverage supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.040.
- (3) An entity listed in subsection (1) of this section who wishes to import less than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:
 - (a) Apply for a limited out-of-state malt beverage supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay an annual fee required by KRS 243.040.
- (4) An out-of-state applicant shall be exempt from the notice requirements of KRS 243.360.

➔Section 61. KRS 243.220 is amended to read as follows:

No license ~~for the sale of alcoholic beverages at retail~~ shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written *agreement*~~lease~~ or a permit for a term of not less than the license period.

➔Section 62. KRS 243.230 is amended to read as follows:

(1)~~—(a)~~ *Except as limited by subsection (2) of this section*, quota retail drink licenses may be issued ~~only~~ for premises located within urban-county governments, *incorporated* cities ~~containing a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census~~, or elsewhere in counties ~~containing an urban-county government or such a city~~ if those *cities and* counties maintain an adequate police force ~~under KRS 70.540 and 70.150 to 70.170~~.

(b)~~— If one (1) or more quota retail drink licenses or NQ2 retail drink licenses have been issued to establishments in a city that does not meet the population requirements of paragraph (a) of this subsection or in a county that does not contain a city meeting the population requirements of paragraph (a) of this subsection prior to January 1, 2015, then that county or city shall continue to be treated in a manner as if the city or county meets the requirements of paragraph (a) of this subsection.~~

(2)~~— Notwithstanding subsection (1) of this section, quota retail drink licenses may be issued for premises located within a city in which the majority of votes cast in the most recent election held under KRS 242.127 and 242.129 were in favor of the proposition voted upon if the city has an adequate police force under KRS 95.761 to 95.784.~~

(3)~~— Quota~~~~Notwithstanding subsection (1) of this section, NQ2~~ retail drink licenses may *not* be issued to ~~qualifying~~ premises located within a city~~, or in a county, if the city~~ or *a* county *that* has enacted an ~~economic hardship~~ ordinance *preventing the issuance of these licenses within the jurisdiction of the local government* ~~under KRS 243.072~~.

- (3)~~(4)~~ (a) Quota retail package licenses may be issued only for premises located within:
 - 1. Incorporated cities; ~~or~~
 - 2. Elsewhere in counties containing an urban-county government or a city with a population equal to or greater than eight thousand (8,000) ~~based upon the most recent federal decennial census~~ if those counties maintain an adequate police force ~~under KRS 70.540 and 70.150 to 70.170~~.
- (b) If one (1) or more quota retail package licenses have been issued to establishments in a county that does not contain a city meeting the population requirements of paragraph (a) of this subsection prior to January 1, 2015, then that county shall continue to be treated in a manner as if the county meets the qualifications of paragraph (a) of this subsection.

~~(4)(5)~~ Notwithstanding subsection ~~(3)(4)~~ of this section, the department may, after a field investigation, issue a quota retail package license to premises not located within any city if the county maintains an adequate police force under KRS 70.540 and 70.150 to 70.170, and if:

- (a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;
- (b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, where applicable, and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store, or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

~~(5)(6)~~ No quota retail package license or quota retail drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

➔Section 63. KRS 243.240 is amended to read as follows:

A quota retail package license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises. ~~The~~~~[Such a]~~ licensee shall purchase distilled spirits and wine in retail packages only and only from licensed wholesalers~~[-The licensee may sell only to consumers and may make deliveries only at the premises designated in his or her license. The holder of a quota retail package license may also hold a nonquota retail malt beverage package license].~~

➔Section 64. KRS 243.250 is amended to read as follows:

A quota retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers~~[-and unless he or she also holds a quota retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the quota retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its food and beverage receipts from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A quota retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package. The holder of a quota retail drink license may also hold a NQ4 retail malt beverage drink license].~~

➔Section 65. KRS 243.260 is amended to read as follows:

- (1) A special temporary license may be issued in wet territory to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity *for the license*~~[therefor]~~ exists. *Unless inconsistent with this section, a special temporary licensee shall have*~~[This license shall authorize the licensee to exercise]~~ the *same privileges and restrictions* of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee *at the designated premises* ~~[for a specified and limited time]~~, not to exceed thirty (30) days~~[-and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or an NQ4 retail malt beverage drink license shall apply also to a special temporary licensee].~~
- (2) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, reception, reunions, or similar occasions.
- (3) The holder of a special temporary license may sell, serve, and deliver *alcoholic*~~[distilled spirits, wine, or malt]~~ beverages by the drink, for consumption *only at the designated premises and the date and times for the qualifying event* ~~[only in:~~
 - ~~(a) Those cities and counties where quota retail drink licenses are authorized to be issued under KRS 243.230;~~
 - ~~(b) A city approving retail distilled spirits and wine sales under KRS 242.127 and 242.129; or~~
 - ~~(c) A city or county that has enacted an economic hardship ordinance under KRS 243.072].~~

(4) ~~The holder of a special temporary license may only sell, serve, and deliver wine or malt beverages by the drink, for consumption at an event located in all other cities and counties not identified in subsection (3) of this section.~~

(5) ~~A special temporary license shall not be issued for an event held in **dry or** moist territory where only limited alcoholic beverages drink sales have been approved through a moist local option election.~~

➔Section 66. KRS 243.355 is amended to read as follows:

- (1) A distilled spirits and wine storage license may be issued as a primary license or as a supplementary license to the holder of a distiller's ~~license, for,~~ rectifier's license, **or quota retail package license**.
- (2) A distilled spirits and wine storage license may be issued to any person ~~or entity~~ operating a bonded warehouse for distilled spirits, and who does not at the same time, and for the same premises, hold a federal operating permit for distilling purposes, but who possesses only a federal operating permit for a bonded warehouse for distilled spirits as defined by federal law and the Internal Revenue Code.
- (3) A licensee under this section may operate a bonded warehouse or warehouses for premises specifically designated, but this license shall become void if a federal operating permit for distilling purposes is issued for the same premises, and shall remain void while the federal permit remains in effect. Upon the granting of a federal operating permit for distilling purposes, the licensee of the premises previously licensed under this section shall obtain a license as set out in KRS 243.030(1).
- (4) A distilled spirits and wine storage license may be issued to persons or entities not otherwise entitled under Kentucky law to store or warehouse distilled spirits or wine, but who are so authorized by the federal government. The license shall authorize the licensee to operate a warehouse or place of storage for distilled spirits or wine on the premises specifically designated.
- (5) **A quota retail package licensee holding a supplemental distilled spirits and wine storage license may store distilled spirits and wine at the storage licensed premises convenient to the licensee's regular retail package licensed premises.**

➔Section 67. KRS 243.360 is amended to read as follows:

- (1) **All persons** ~~Any person, corporation, partnership, or any other entity~~, except an applicant for the same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, ~~micro out of state distilled spirits and wine supplier's license,~~ supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special nonbeverage alcohol license, a transporter's license, a special Sunday drink license, **a hotel in-room license, a sampling license**, or a special temporary drink license shall, before applying for a license ~~under KRS 243.030 and 243.040~~, advertise by publication **their** ~~under KRS 424.130(1)(b) his or her~~ intention to apply for a license **in the newspaper for legal notices under KRS 424.120 for the county or city whose local administrator has local jurisdiction over the proposed premises.**
- (2) The notice shall ~~contain~~ **conform in all material respects to** the following ~~information~~ **requirements**:
 - (a) The notice shall state: the name and address of the applicant **and the name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law** ~~if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation~~;
 - (b) The notice shall specifically state the location of the premises for which the license is sought, **the type of business**, and the type of license being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the **approval** ~~granting~~ of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

- (4) *Substantial compliance with the information listed in subsection (2) of this section shall be sufficient to comply with this section.*

➔Section 68. KRS 243.380 is amended to read as follows:

- (1) Applications for distilled spirit and wine licenses~~[provided for in KRS Chapters 241 to 244]~~ shall be made to the~~[director of the Division of]~~ distilled spirits **administrator**. Applications for malt beverage licenses~~[provided for in KRS Chapters 241 to 244]~~ shall be made to the~~[director of the Division of]~~ malt beverages **administrator**. Applications for distilled spirits, wine, and malt beverage licenses~~[provided for in KRS Chapters 241 to 244]~~ shall be made to the~~[director of the Division of]~~ distilled spirits **administrator** and to the~~[director of the Division of]~~ malt beverages **administrator**.
- (2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail all information concerning the applicant and the premises submitted for licensing as the board requires **through the promulgation of an**~~[by]~~ administrative regulation. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt of the payment the board shall pay it into the State Treasury, giving the Department of Revenue copies of the pay-in vouchers and any other supporting data as the Department of Revenue requires for revenue control purposes.
- (3) A business entity that owns more than two (2) licensed premises ~~may~~**shall** initially submit common information about ownership, officers, directors, managerial employees, and shall provide current criminal background checks once for all separately licensed premises in one (1) master file. Any business qualifying under this subsection shall only be required to amend its master file information for material changes under KRS 243.390(2) or ownership transfers under KRS 243.630.

➔Section 69. KRS 243.390 is amended to read as follows:

- (1) ~~[In addition to other information as]~~The board may **require through the promulgation of an**~~[by]~~ administrative regulation **that license applications**~~[require, every application for a license under KRS 243.020 to 243.670 shall]~~ contain the following information, given under oath:
 - (a) The name, age, Social Security number, address, residence, and citizenship of each applicant;
 - (b) If the applicant is a partner, the name, age, Social Security number, address, residence, and citizenship of each partner and the name and address of the partnership;
 - (c) The name, age, Social Security number, address, residence, and citizenship of each **individual or partner**~~[person]~~ interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company,~~[or]~~ limited liability company, **or other business entity recognized by law**, the name, age, Social Security number, **and** address~~[, and residence]~~ of each **principal owner, member, officer, and director of the applicant**~~[officer, director, member, partner, and managerial employee and the citizenship of each, and the state under the laws of which the corporate applicant is incorporated or organized]~~. The department may require the names of all **owners**~~[the stockholders]~~ and the **ownership** percentage~~[of stock]~~ held by each;
 - (d) The premises to be licensed, stating the street and number, if the premises has a street number, and~~[otherwise such]~~ a description that will reasonably indicate the location of the premises;
 - (e) **I.** A statement that neither the applicant nor any other person referred to in this section has been convicted of:
 - a.** Any misdemeanor directly or indirectly attributable to alcoholic beverages;
 - b.** Any violation of KRS **Chapter 218A**~~[218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130]~~ within the two (2) years immediately preceding the application;
 - c.** Any felony, within five (5) years from the later of the date of parole or the date of conviction; or
 - d.** Providing false information to the department preceding the application; and

2. A **statement** that the applicant or any other person referred to in this section has not had any license that has been issued ~~to him~~ under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application; ~~and~~
- (f) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages; **and**
- (g) **Any other information necessary for the department to administer KRS Chapters 241 to 244.**
- (2) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the ~~department~~~~board~~ within ten (10) days after the change.
- (3) In giving any notice or taking any action in reference to a license, the ~~department~~~~board~~ may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in the application or supplemental statement shall be deemed material in any prosecution for perjury.

➔Section 70. KRS 243.430 is amended to read as follows:

- (1) The state ~~administrator~~~~director~~ may ~~deny~~~~reject~~ any application for a license ~~issued under KRS 243.030 and 243.040~~ if the application is incomplete or the correct fee has not been remitted with the application. ~~In rejecting an application, the state director shall provide a written statement of the deficiencies contained in the application.~~
- (2) A license shall not be **approved or** issued until the thirty (30) day period in which a protest is permissible has expired. Any license for which public notice under KRS 243.360 is required may conditionally be issued in less than thirty (30) days from the date the application is received if the premises has previously operated under the same type of license within the last twelve (12) months.
- (3) **The state administrator shall deny, approve, or issue** ~~All remaining~~ licenses ~~provided for in KRS 243.030 or 243.040 shall be issued~~ when, in the sound discretion of the ~~administrator~~~~director~~, all of the information necessary has been obtained **or the applicant has refused to provide requested information.**

➔Section 71. KRS 243.440 is amended to read as follows:

~~{(1)} All licenses under KRS 243.020 to 243.670 shall be in such form as may be prescribed by regulations of the board and~~ shall contain:

- (1)~~{(a)}~~ The name and address of the licensee;
- (2)~~{(b)}~~ The number of the license;
- (3)~~{(c)}~~ The type of the license;
- (4)~~{(d)}~~ A description by street and number, or otherwise, of the licensed premises;
- (5)~~{(e)}~~ ~~The name and address of the owner of the building in which the licensed premises are located;~~
- ~~{(f)}~~ The expiration date of the license; **and**
- (6)~~{(g)}~~ A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

~~{(2)} Each kind of license shall be printed so as to be readily distinguishable from the other kinds.~~

➔Section 72. KRS 243.450 is amended to read as follows:

- (1) A license ~~to be issued under KRS 243.020 to 243.670~~ shall be **denied**~~refused~~:
- (a) If the applicant or the premises for which the license is sought does not comply fully with all alcoholic beverage control statutes and the **administrative** regulations of the board;
- (b) If the applicant **has not obtained approval from the local ABC administrator for a county or city license required at the proposed premises**~~for the premises for which the license is sought does not comply with all regulations of a city administrator or county administrator~~;
- (c) If the applicant has done any act for which a revocation of license would be authorized; or
- (d) If the applicant has made any false material statement in ~~its~~~~his~~ application.

- (2) A license~~[that might be issued under KRS 243.020 to 243.670]~~ may be **denied**~~[refused]~~ by a state **administrator**~~[director]~~ for any reason **that**~~[which]~~ the **administrator**~~[director]~~, in the exercise of **the administrator's**~~[his or her]~~ sound discretion, deems sufficient. Among those factors that the **administrator**~~[director]~~ shall consider in the exercise of **this**~~[his or her]~~ discretion are:

- (a) Public sentiment in the area;
- (b) Number of licensed outlets in the area;
- (c) Potential for future growth;
- (d) Type of area involved;
- (e) Type of transportation available;~~[and]~~
- (f) Financial potential of the area; **and**
- (g) ***Applicant's status as a delinquent taxpayer as defined in KRS 131.1815.***

➔Section 73. KRS 243.470 is amended to read as follows:

- (1) If a state **administrator denies a license**~~[director rejects an]~~ application, the **administrator**~~[director]~~ shall notify the applicant **in writing of the denial and reasons**~~[his or her decision]~~ by registered **or certified** mail at the address given in the application or supplement.
- (2) The applicant may, within thirty (30) days after the date of the mailing of the notice from the **state administrator, file a request with the board for an administrative hearing on the application**~~[director, indicate, in writing, his or her desire for a hearing]~~. The hearing shall be conducted by the board **as a de novo review of the application**~~[for persons designated by the board]~~ in compliance with the requirements of KRS Chapter 13B.
- (3) ***If the state administrator denies an application and the applicant does not timely request a board hearing on its application under subsection (2) of this section, the department shall refund payment of the license fee to the applicant if requested. The department shall also refund payment of any license fee erroneously paid by an applicant.***

➔SECTION 74. KRS 243.490 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A license may be revoked or suspended by the board for a violation of any of the following:

- (1) ***Any of the provisions of KRS Chapters 241 to 244;***
- (2) ***Any administrative regulation of the board relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages;***
- (3) ***Any rule or administrative regulation of the Department of Revenue relating to the taxation of alcoholic beverages;***
- (4) ***Any Act of Congress or any rule or regulation of any federal board, agency, or commission;***
- (5) ***Any local ordinance relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages;***
- (6) ***Any of the laws, regulations, or ordinances referred to in this section when an agent, servant, or employee of the licensee committed the violation, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of the licensee's instructions;***
- (7) ***Any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient; or***
- (8) ***Any of the reasons for which the state administrator would have been required to deny a license if existing material facts had been known.***

➔Section 75. KRS 243.500 is amended to read as follows:

Any license~~[issued under KRS 243.020 to 243.670]~~ may be revoked or suspended for the following causes:

- (1) Conviction of the licensee or **the licensee's**~~[his]~~ agent, **servant**, or employee for selling any illegal **alcoholic** beverages on the licensed premises.

- (2) Making any false, material statements in an application *or renewal application* for a license or supplemental license.
- (3) ~~Violation of the provisions of KRS 243.670.~~
- (4) Conviction of the licensee or any of *the licensee's* ~~[his clerks, servants,]~~ agents, *servants*, or employees of:
- (a) Two (2) violations of the terms and provisions of KRS *Chapters* ~~[Chapter]~~ 241 ~~to~~, 243, ~~or~~ 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
 - (b) Two (2) misdemeanors directly or indirectly attributable to the use of *alcoholic beverages* ~~[intoxicating liquors]~~ within two (2) consecutive years; or
 - (c) Any felony.
- (4) ~~(5)~~ Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any *related* administrative regulations promulgated by the Department of Revenue ~~[made in pursuance thereof]~~.
- (5) ~~(6)~~ Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages ~~[Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations].~~
- (6) ~~(7)~~ Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any *gambling* ~~[such]~~ game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This *subsection* ~~[section]~~ shall not apply to:
- (a) ~~[contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to]~~ The sale of lottery tickets sold under the provisions of KRS Chapter 154A;
 - (b) *The operation of a pari-mutuel system for betting, where authorized by law;*
 - (c) *The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or*
 - (d) *Special temporary raffles of alcoholic beverages under Section 37 of this Act.*
- (7) ~~(8)~~ Conviction of the licensee, *the licensee's* ~~[his]~~ agents, servants, or employees for:
- (a) The *trafficking or possession* ~~[sale or use]~~ upon the licensed premises of ~~[those items described in KRS 218A.050 to 218A.130 as]~~ controlled *or illegal* substances *described in KRS Chapter 218A*, including synthetic drugs;
 - (b) Knowingly permitting the *trafficking or possession* ~~[sale or use]~~ by patrons upon the licensed premises of ~~[those items described in KRS 218A.050 to 218A.130 as]~~ controlled *or illegal* substances *described in KRS Chapter 218A*, including synthetic drugs; or
 - (c) Knowingly receiving stolen property upon the licensed premises.
- (8) *Failure to comply with the terms of a final order of the board.*

➔Section 76. KRS 243.520 is amended to read as follows:

The department ~~[A state director or a person designated by him]~~ may, on *its* ~~[his]~~ own initiative or on the complaint of any person, institute *administrative* proceedings *before the board* to revoke *or suspend* any license ~~[under KRS 243.020 to 243.670]~~. A license may be revoked *or suspended* only after the licensee has been afforded the opportunity for a hearing conducted in accordance with KRS Chapter 13B. *The department may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.*

➔Section 77. KRS 243.530 is amended to read as follows:

Within three (3) days after any order of revocation of a license ~~issued under KRS 243.020 to 243.670~~ becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender ~~its~~^{his} license to the ~~department~~^{board}. If the license revoked is for premises located in any city that has a police force of its own, the ~~department~~^{board}, immediately upon mailing notice of the revocation of the license to the licensee, shall mail to the chief of the police department of that city a written notice stating the fact of the revocation, the name of the licensee whose license was revoked, the address of the premises that had been licensed under the revoked license, and the date of the revocation. If the license revoked is for premises that are not located in any city with a police force of its own, the ~~department~~^{board} shall in like manner and at like time mail a similar notice to the sheriff of the county in which the premises are located. If the revoked license is not ~~forthwith~~ surrendered **at once** by the licensee, the chief of the police department or sheriff shall, at the request of the ~~department~~^{board}, immediately cause one of ~~its~~^{his} officers to take physical possession of the license and return it to the ~~department~~^{board}.

➔Section 78. KRS 243.540 is amended to read as follows:

- (1) The provisions of this section shall apply to any licensee who is unable to continue in business at the licensed premises because of:
 - (a) An act of God;
 - (b) A casualty;
 - (c) An acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency;
 - (d) A voluntary or involuntary acquisition by any ~~private~~ corporation **or other business entity recognized by law** through the ~~corporation's~~ power of eminent domain;
 - (e) A loss of lease because the landlord fails to renew an existing lease;
 - (f) Court action;
 - (g) **Default under a security agreement;**
 - (h) **Default under a lease;** or
 - (i) Other verifiable business reason.
- (2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state ~~administrator~~^{director}, dispose of and transfer **the former licensee's** ~~his or her~~ stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, winery, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.
- (3) A retail licensee in good standing with the department who voluntarily ceases to operate **the licensed** ~~his or her~~ business for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event. The following requirements shall apply to the disposition of the licensee's inventory:
 - (a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;
 - (b) If a licensee has terminated **the licensed** ~~his or her~~ business ~~and has surrendered his or her license to the department~~, **the licensee** ~~he or she~~ shall submit a written request for approval from the state ~~administrator~~^{director} within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and
 - (c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer ~~the~~ ~~his or her~~ inventory to another licensed retail premises **the licensee** ~~he or she~~ owns, **the licensee** ~~he or she~~ shall submit a request in writing to the state ~~administrator~~^{director} at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.

- (4) If a ~~retail~~ licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a ~~retail alcoholic beverage~~ licensee ***holding any license that authorizes the possession and sale of those alcoholic beverages***. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold, ***but if the licensee fails to do so, the notification may be made by the bankruptcy trustee, the lienholder, or the judgment creditor***. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.
- (5) ***A secured creditor or landlord that is in possession, custody, or control of any alcoholic beverages owned by a licensee may dispose of those alcoholic beverages in the following manner:***
- (a) ***The secured creditor or landlord shall submit a written request for approval from the state administrator, within twenty (20) days in advance of the sale or destruction of the licensee's remaining inventory. The request shall identify the:***
 1. ***Licensee who is purchasing the inventory or the business to destroy the inventory;***
 2. ***Proposed date of the sale or destruction; and***
 3. ***Quantity, types, and brands of alcohol to be sold or destroyed;***
 - (b) ***The proposed transferee or transferees may be any person or persons holding any license that authorizes the possession and sale of those alcoholic beverages, or a business authorized to dispose of alcoholic beverages;***
 - (c) ***A copy of the written request shall be mailed by the department to the licensee's registered agent or last known address on file with the department by certified mail. Within ten (10) days after the department's mailing of this request, the licensee shall file with the department and applicant any objection the licensee has to the request, or be permanently barred from objecting; and***
 - (d) ***If a sale is approved, the licensee who purchases the inventory shall notify the department within five (5) days after the transfer of that specific inventory.***
- (6) ***The board may promulgate administrative regulations for additional means for the transfer or disposal of alcoholic beverage inventory.***

➔Section 79. KRS 243.550 is amended to read as follows:

Hearings upon appeals from orders of a ~~local~~~~county administrator or a city~~ administrator, a ***license*** determination of a state ~~administrator~~~~director~~, or upon proceedings ***initiated by the department*** for ***license*** revocation or suspension shall be held by the board. The board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. Decisions shall be made and final orders entered only upon the vote of a majority of the board. The hearings shall be conducted in accordance with the provisions of KRS Chapter 13B.

➔Section 80. KRS 243.560 is amended to read as follows:

- (1) ~~All~~~~Any~~ final ~~orders~~~~order~~ of the board ***may be appealed to the Circuit Court of the county where the appellant resides or the county containing the appellant's licensed premises, if any, notwithstanding KRS Chapter 13B***~~[refusing, revoking or suspending a license may be appealed from by the applicant or licensee, and any final order of the board granting or refusing to revoke or suspend a license may be appealed from by any citizen feeling himself aggrieved].~~
- (2) ***A party to the administrative action may institute an appeal by filing a petition in the office of the clerk of the Circuit Court of the county where the appellant resides or the county containing the appellant's licensed premises, if any, within thirty (30) days after the final order of the board is mailed or delivered by personal service***~~[The person aggrieved by a final order may file a petition in the office of the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B].~~
- (3) The board, ***department***,~~and the~~ licensee or applicant, ***and any other parties to the administrative action*** shall be necessary parties to ~~all~~~~any~~ appeals~~. If the appeal is from a final order refusing, revoking, or suspending a license, the board, when served with the summons, or a person as the board may designate, shall appear and defend the action of the board in refusing, revoking, or suspending the license in question. If the appeal is from a final order granting or refusing to revoke or suspend a license the burden of appearing and defending the action of the board shall be upon the licensee].~~

(4) ~~If the appeal is from a final order of the board refusing, revoking, or suspending a license, the costs of the appeal shall be taxed against the applicant or licensee in any case. If the appeal is from a final order issuing or refusing to revoke or suspend a license, the costs shall be taxed against the citizen who, feeling himself aggrieved, has contested the final order, if the final order of the board issuing or refusing to revoke the license is sustained. If the final order is set aside with direction to the board to refuse, revoke, or suspend the license, the costs shall be taxed against the licensee.~~

(5) No final order of the board issuing a license shall become effective, and no license under that final order shall be issued, until the expiration of the appeal period contained in KRS Chapter 13B. If an appeal from a final order has been filed as provided under KRS 13B.140, the final order shall not become effective until the appeal has been finally determined by the courts. ***During the pendency of any appeal, a court may dissolve the stay under this section for good cause shown.***

➔Section 81. KRS 243.590 is amended to read as follows:

Any party aggrieved by a judgment of the ~~Franklin~~ Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

➔Section 82. KRS 243.620 is amended to read as follows:

- (1) Before commencing or doing any business for the time for which a license has been issued, all licenses ~~issued under KRS 243.020 to 243.670~~ shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (2) No licensee shall post the license or permit it to be posted, upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy, or alter the license in any respect.

➔Section 83. KRS 243.630 is amended to read as follows:

- (1) For purpose of this section, "transfer" means:
 - (a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any ***licensed business or*** license ~~issued under KRS 243.020 to 243.670~~; ~~or~~
 - (b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business; ***or***
 - (c) ***The transfer of a business or license to a different premises.***
- (2) Any license issued ~~under KRS 243.020 to 243.670~~ to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state ***administrator*** ~~director~~ in the exercise of ~~his~~ sound discretion ~~under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.~~
- (3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state ***administrator*** ~~director~~. The state ***administrator*** ~~director~~ shall ***treat a transfer applicant as*** ~~grant approval if the person acquiring the interest meets the qualifications for~~ a new applicant ***for qualification and discretion purposes.***
- (4) Any acquisition of interest in a license without prior authorization shall be void.
- (5) All applications for approval of a transfer shall be made in writing to the state ***administrator*** ~~director~~ having jurisdiction over the license.
- (6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain ***any*** ~~such~~ other information ***prescribed by*** ~~as~~ the department ~~may prescribe~~.
- (7) The appropriate state ***administrator*** ~~director~~ shall ~~grant or~~ deny ***or approve*** the application ***when, in the sound discretion of the administrator, all of the necessary information has been obtained or the applicant has refused to provide requested information*** ~~within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the director and the transferee~~, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

- (8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the state ~~administrator~~~~director~~ of malt beverages or the state ~~administrator~~~~director~~ of distilled spirits or both.
- (9) A licensee shall not transfer ~~its~~~~[his or her]~~ license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or **administrative** regulation which may result in the suspension or revocation of the license are pending.
- (10) A licensee shall not transfer ~~its~~~~[his or her]~~ license or any interest ~~it~~~~[he or she]~~ has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.
- (11) A licensee shall not transfer ~~its~~~~[his or her]~~ license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in **subsection (4) of Section 75 of this Act**~~[KRS 243.500(5)]~~. A transfer shall not take place until the department is notified by the Kentucky Department of Revenue that the licensee's indebtedness has been paid or resolved to the satisfaction of the Department of Revenue. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

➔Section 84. KRS 243.640 is amended to read as follows:

- (1) If a corporation, **limited liability company, limited partnership,**~~[or] partnership, or other business entity recognized by law~~ that holds a license~~[under KRS 243.020 to 243.670]~~ is dissolved, or if a receiver, assignee for the benefit of creditors, or a guardian or conservator for the property of a licensee~~[under those sections]~~ is appointed during the time for which a license was **approved**~~[granted]~~, or if a licensee~~[under those sections]~~ dies during the time for which the license was issued and a personal representative is appointed for **the licensee's**~~[his or her]~~ estate, that corporation, **limited liability company, limited partnership,** partnership, **other business entity recognized by law,** receiver or assignee, or the personal representative of the estate of the deceased or individual adjudged to be mentally disabled, may be permitted to continue the business upon the licensed premises for the balance of the term for which the license was effective, **and any renewed license approved by the state administrator,** with the same rights and subject to the same restrictions and liabilities as if ~~they~~~~[he or she]~~ had been the original licensee.
- (2) Before continuing the business the receiver, assignee, personal representative, or committee shall file a statement **with the state administrator or administrators** setting forth~~[in the form the board prescribes]~~ the facts and circumstances by which ~~they have~~~~[he or she has]~~ succeeded to the rights of the original licensee. The ~~administrator or administrators~~~~[state director of the division that issued the original license]~~ may, in the exercise of **the administrator's**~~[his]~~ sound discretion, permit or refuse to permit the continuance of the business.
- (3) If the ~~administrator~~~~director~~ permits the continuance of the business, the license shall be submitted to **the administrator**~~[him or her]~~, and **the administrator**~~[he or she]~~ shall write or stamp across the face of the license the words: ".... is permitted to exercise the rights and privileges of the original licensee as (assignee, receiver, personal representative, or committee, as the case may be) of the original licensee for the unexpired term of this license." The ~~endorsement~~~~[indorsement]~~ on the face of the license shall be dated and signed by the person making it.

➔Section 85. KRS 243.650 is amended to read as follows:

In case of destruction by an act of God or casualty for which the licensee was not responsible, of premises for which a license~~[under KRS 243.020 to 243.670]~~ has been issued, the state ~~administrator~~~~director who issued the license~~ may, if in **the administrator's**~~[his]~~ discretion ~~the~~~~[such]~~ action is necessary to attain justice, change the license to authorize continuance of business at other premises. No~~[such]~~ transfer shall be made unless the licensee has filed a written verified statement of the reasons for the necessity of transfer. If the transfer is made the state ~~administrator~~~~director~~ shall ~~endorse~~~~[indorse]~~ a description of the new premises upon the license and shall date and sign the ~~endorsement~~~~[indorsement]~~.

➔Section 86. KRS 243.660 is amended to read as follows:

No person shall pledge or **grant a security interest in**~~[hypothecate]~~ any license~~[issued under KRS 243.020 to 243.670]~~. **This type of**~~[Any such]~~ pledge or **security interest**~~[hypothecation]~~ and any contract providing **for the pledge or security interest**~~[therefor]~~ shall be void.

➔Section 87. KRS 243.670 is amended to read as follows:

The license fee for every license~~[under KRS 243.020 to 243.670]~~ shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued~~[under those sections]~~.

➔Section 88. KRS 243.895 is amended to read as follows:

~~{(1) —}~~ All licensed **retailers**~~[retail vendors]~~ of alcoholic beverages, *except holders of special temporary licenses*, shall post in a prominent place easily seen by patrons a printed sign at least *eight and one-half (8-1/2) inches by eleven (11) inches*~~[by fourteen (14) inches]~~ in size,~~[with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and]~~ with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

~~{(2) —}~~ A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50).~~]~~

➔Section 89. KRS 244.050 is amended to read as follows:

~~A{(4) —}~~ No retail licensee shall **not sell**, give away, **or deliver** any alcoholic beverage **at retail** in any quantity~~[or deliver it in any quantity]~~ for less than ***paid or current wholesale cost***~~[a full monetary consideration]~~, except ***upon written request and approval by the administrators, pursuant to a bona fide "close out" sale, or*** as provided by KRS 243.0305, 243.155, 243.157, and ***Section 28 of this Act***~~[subsection (2) of this section]~~.

~~{(2) —}~~ The holder of a quota retail drink license, a quota retail package license, an NQ2 license, or a distillery license may, after acquiring a sampling license, allow customers to sample, free of charge, distilled spirits and wine under the following conditions:

(a) — Free sampling shall be permitted only on licensed premises and by licensees holding a sampling license, during regular business hours; and

(b) — Except as authorized by KRS 243.0305, a licensee shall limit a customer to:

1. — One (1) ounce of free distilled spirits samples per day; and

2. — Six (6) ounces of free wine samples per day.

~~{(3) —}~~ Retailers holding a sampling license shall:

(a) — Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a free sampling event; and

(b) — Limit a free sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

~~{(4) —}~~ In addition to free sampling, a quota retail package licensee holding a sampling license may also sell sample distilled spirits and wine under the following conditions:

(a) — Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours; and

(b) — A licensee shall limit a customer to purchased samples totaling no more than:

1. — Two (2) ounces of distilled spirits per day; and

2. — Nine (9) ounces of wine per day.

~~{(5) —}~~ A quota retail package licensee holding both a sampling license and a nonquota retail malt beverage package license may also sell samples of malt beverages under the following conditions:

(a) — Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours;

(b) — A licensee shall limit a customer to no more than sixteen (16) ounces of malt beverages per day;

(c) — Nothing in this subsection shall allow a quota retail package licensee to provide a customer samples of malt beverages free of charge;

(d) — The retail price of a sample shall not be less than a licensee's purchase cost of the sample; and

(e) — A licensee, supplier, or individual shall not request, require, or allow a distributor to provide malt beverages free of charge or participate in any activity allowed under this subsection.

~~(6) No customer shall be allowed to receive a combination of free and purchased samples totaling more than:~~

~~(a) Two (2) ounces of distilled spirits per day; and~~

~~(b) Nine (9) ounces of wine per day.~~

~~(7) Samples sold under subsections (4) and (5) of this section shall not constitute drink sales.]~~

➔Section 90. KRS 244.060 is amended to read as follows:

(1) No licensee~~[under KRS 243.020 to 243.670]~~ shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent's or solicitor's license if ~~this[such a]~~ license is required.

(2) No licensee~~[under KRS 243.020 to 243.670]~~ shall sell or agree to sell any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent's or solicitor's license.

➔Section 91. KRS 244.080 is amended to read as follows:

A retail licensee, or the licensee's agent, servant, or employee, shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, possessed by, or delivered to:

(1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that *the purchaser's*~~[his or her]~~ age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that *the purchaser*~~[he or she]~~ was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(2) A person *who appears to a reasonable person to be* actually or apparently under the influence of alcoholic beverages, *controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity.*

~~[(3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.~~

~~(4) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony.]~~

➔Section 92. KRS 244.085 is amended to read as follows:

~~(1)[As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive in establishments, the entire lot upon which the business establishment is situated.~~

~~(2)]~~ A person under twenty-one (21) years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

~~(2) [(3)]~~ A person under twenty-one (21) years of age shall not possess for *personal*~~[his or her own]~~ use or purchase or attempt to purchase or have another purchase for *the person*~~[him or her]~~ any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or *being*~~[having]~~ delivered or served~~[to him or her]~~ any alcoholic beverages.

~~(3) [(4)]~~ A person under twenty-one (21) years of age shall not misrepresent *the person's*~~[his or her]~~ age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

~~(4) [(5)]~~ A person under twenty-one (21) years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(5)(6) Except as provided in KRS~~[244.087 and]~~ 244.090, a licensee, or *the licensee's*~~[his or her]~~ agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

- (a) The usual and customary business of the *licensee*~~[establishment]~~ is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery, distillery,~~[or]~~ brewery,~~[or]~~ winery~~[tour]~~, convenience store, grocery store, drug store, *entertainment destination center*, licensed APC premises, or *any other business type, as determined by the board through the promulgation of administrative regulations, whose operations allow it to adequately monitor and prevent alcohol sales to minors*~~[similar establishment]~~;
- (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises;
- (c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including but not limited to weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state *administrators*~~[director]~~ shall approve or deny the request in writing; or
- (d) The usual and customary business of the establishment is an entertainment facility where prebooked concerts are held. For the purpose of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this paragraph, the licensee shall:
 - 1. Maintain the responsibility of all ticket sales;
 - 2. Sell the concert tickets directly to the patron or have a contractual agreement with a vendor or promoter to sell the concert tickets for the licensee;
 - 3. Maintain records of all gross concert ticket sales. The concert tickets shall have the name of a band or performer as well as the date of the concert;
 - 4. Permit minors to be in the area where the concert is taking place only during the time of the concert; and
 - 5. Prohibit minors on the premises until thirty (30) minutes prior to the concert and prohibit minors from remaining on the premises more than thirty (30) minutes after the concert performance has ended.

(6)(7) Except as provided in subsection (5)(6) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(7)(8) Except as provided in subsection (5)(6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless *the person under the age of twenty-one (21)*~~[he or she]~~ is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(8)(9) A violation of subsection (1), (2), (3), (4),~~(5),~~ or (7)(8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

➔Section 93. KRS 244.090 is amended to read as follows:

(1) A person holding any license~~[under KRS Chapters 241 to 244]~~ shall not knowingly employ in connection with *the licensed*~~[his or her]~~ business any person who:

- (a) Has been convicted of any felony within the last two (2) years~~[The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998];~~

- (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of ***alcoholic beverages***~~[intoxicating liquors]~~ within the last two (2) years;
- (c) Is under the age of twenty (20) years, unless the person is employed:
 - 1. In a bottling house or room of a licensed distiller, winery, brewer, or rectifier;
 - 2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory~~[or as provided in KRS 244.087]; [or]~~
 - 3. ***At premises licensed only with a nonquota retail malt beverage package license, and the person employed to sell malt beverages is at least eighteen (18) years of age and under the supervision of a person twenty (20) years of age or older; or***
 - 4. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:
 - a. A restaurant that derives at least fifty percent (50%) of its food and ***alcoholic*** beverage sales from the sale of food for consumption on the licensed premises; or
 - b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales; or
- (d) Within two (2) years prior to the date of ***the person's***~~[his]~~ employment, has had any license issued under KRS Chapters 241 to 244 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
- (2) The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.
- (3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

➔Section 94. KRS 244.110 is amended to read as follows:

The entrance of any premises for which a ***quota retail package license or a quota retail drink*** license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be~~[so]~~ erected and maintained~~[as]~~ to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

➔Section 95. KRS 244.130 is amended to read as follows:

- (1) ~~At Except in conformity with administrative regulations of the board, no~~ licensee ~~may~~~~[under KRS 243.020 to 243.670 shall]~~ advertise or cause~~[or permit]~~ to be advertised in any manner any product ***that the licensee***~~[which he or she]~~ is licensed to manufacture or sell ***unless prohibited by administrative regulations promulgated by the board.***
- (2) ***The board***~~[Subsection (1) of this section]~~ shall not prohibit ***the following forms of advertising:***
 - (a) Advertising in newspapers, magazines, or periodicals having a general circulation;
 - (b) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;
 - (c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams;
 - (d) Promotional advertising mailed or delivered to a consumer's residence; or
 - (e) A distiller from providing visitors who are twenty-one (21) years of age or older, in conjunction with a distillery tour or an event conducted by a bona fide church or charitable organization, free:
 - 1. Consumer-branded nonalcoholic novelty items whose actual retail cost does not exceed seventy-five dollars (\$75) per item; and
 - 2. Production by-products.

➔Section 96. KRS 244.150 is amended to read as follows:

- (1) Each licensee~~[under KRS 243.020 to 243.670]~~ shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the Department of Revenue, adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by *administrative* regulations of the department and the Department of Revenue.
- (2) The *department*~~[commissioner]~~ may require common carriers to provide information in *an approved*~~[such]~~ form~~[as he or she deems wise]~~ respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

➔Section 97. KRS 244.167 is amended to read as follows:

- (1) It is unlawful:
 - (a) For any distiller, rectifier, winery, brewer, or importer to solicit, accept, or fill any order for any *alcoholic*~~[distilled spirits, wine, or malt]~~ beverage from any wholesaler or distributor in the Commonwealth of Kentucky unless the supplier is the primary source of supply for the brand of alcoholic beverage sold or sought to be sold;
 - (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to order, purchase, or receive any alcoholic beverage from any supplier unless the supplier is the primary source of supply for the brand ordered, purchased, or received;
 - (c) For a retailer to order, purchase, or receive any~~[distilled, vinous, or malt]~~ alcoholic beverage from any source other than any of the following:
 1. A wholesaler or distributor who has purchased the brand from the primary source of supply; or
 2. A wholesaler or distributor who is the designated representative of the primary source of supply in this Commonwealth and who has purchased~~[the]~~ alcoholic *beverages*~~[beverage]~~ from the designated representative of the primary source of supply within or without this Commonwealth; and
 - (d) For alcoholic beverages to be transported from a wholesaler's or distributor's warehouse within twenty-four (24) hours of the time they are unloaded.
- (2) The~~[Department of]~~ Alcoholic Beverage Control *Board* may suspend for a period not to exceed one (1) year the license of any wholesaler, distributor, or retailer who violates the provisions of this section.
- (3) Upon determination by the~~[Department of]~~ Alcoholic Beverage Control *Board* that a primary source of supply has violated the provisions of this section, no wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages from the primary source of supply for a period of one (1) year.
- ~~{(4) For the purposes of this section, "primary source of supply" or "supplier" means the distiller, producer, brewer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner.}~~

➔Section 98. KRS 244.180 is amended to read as follows:

The following property, even though found and seized in dry territory, is contraband:

- (1) Any apparatus commonly used or intended to be used in the manufacture of alcoholic beverages and not registered in the office of a collector of internal revenue for the United States. The burden of proof that the apparatus is *properly*~~[so]~~ registered shall be on the defendant.
- (2) Any~~[and all]~~ material, equipment, implements, devices, firearms, and other property used or intended for use directly and immediately in connection with the unlawful traffic in alcoholic beverages.
- (3) Any alcoholic beverages in the possession of anyone not entitled by law to possess them.
- ~~{(4) Any alcoholic beverages to which the revenue stamps or tax crowns have not been affixed as required by KRS 243.720 to 243.850.}~~
- ~~{(5)}~~ Any alcoholic beverages in a container of a size prohibited by law or prohibited to the particular party in whose possession they are found.

- (5)~~(6)~~ Any vehicle, watercraft, or aircraft in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic ~~beverages~~~~liquors~~ unless lawfully acquired and intended for lawful uses.

➔Section 99. KRS 244.190 is amended to read as follows:

Any peace officers, state administrators, and ~~investigators~~~~field representatives~~ of the department may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or one in possession of the contraband has been charged with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order for the destruction of all contraband property, except firearms or ammunition, included in **subsections (1), (2), (3), and (4) of Section 98 of this Act**~~KRS 244.180(1), (2), (3), (4), and (5)~~. Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

➔Section 100. KRS 244.195 is amended to read as follows:

- (1) Title to **seized** contraband included in **subsections (1), (2), (3), and (4) of Section 98 of this Act**~~KRS 244.180(1), (2), (3), (4), and (5) seized~~ shall be vested in the appropriate court within whose jurisdiction the seizure occurred, irrespective of whether ~~the~~~~such~~ contraband was seized by peace officers of the city or county or state administrators or ~~investigators~~~~field representatives~~ of the department, notwithstanding the provisions of KRS 242.380.
- (2) The court shall order the sheriff for the county in which ~~the~~~~such~~ contraband~~as~~ included in subsection (1) of this section was seized to destroy ~~the~~~~such~~ contraband, except firearms or ammunition, upon conviction of the defendant.
- (3) Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

➔Section 101. KRS 244.200 is amended to read as follows:

- (1) Contraband property included in subsection (5) **of Section 98 of this Act**~~(6) of KRS 244.180~~ shall be subject to the right of any owner or lienor, whose lien is valid and of record, to intervene and establish **the owner or lienor's**~~his~~ rights in the property by proving that the property was being used in connection with traffic in alcoholic beverages without the knowledge, consent, or approval of the owner or lienor.
 - (a) If the owner of the property **proves the owner's lack of knowledge, consent, or approval**~~does so prove~~, the court shall order the property restored to **the owner; or**
 - (b) ~~him.~~ If the lienor~~so~~ proves **the lienor's lack of knowledge, consent, or approval**, the court shall order a sale of the property at public auction, unless an agreement is made between the lienor and the board, which shall not become final until it has been approved by the court. The board may deliver any property found to be contraband to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the board of the difference between the fair market value of the **seized** property~~so seized~~ and the recorded claim of the lienor.
- (2) Where an agreement has been made between the lienor and the board and approved by the court, a public auction shall not be required. If an agreement is not entered into between the board and the lienor or approved by the court, and a public auction is required~~to be held~~, the public auction shall be conducted by the sheriff of the county in which the property is seized. The sheriff shall receive and be allowed the same fees as allowed for sales under execution.
- (3) The expenses of keeping and selling ~~the~~~~such~~ property, and the amount of all valid recorded liens that are established by intervention as being bona fide, shall be paid out of the proceeds of the sales, whether they are private or public. The balance shall be paid into the State Treasury and be credited to the general fund.
- (4) If the defendant is acquitted, no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession the property was taken proves that ~~the person~~~~he~~ was in lawful possession of the property, and if no other person appears and proves that ~~the other person~~~~he~~ owns the property or has a valid recorded lien on the property and that the property was being used without **that person's**~~his~~ knowledge and consent, title shall vest in the board at the end of ninety (90) days.
- (5) If the owners or lienholders of any contraband seized by state administrators or ~~investigators~~~~field representatives~~ of the department or turned over to the department by other officials, cannot be located within ninety (90) days, and during that time fail to appear and claim the contraband, or if the owner or lienholder

appears and agrees, title to the contraband shall immediately vest in the board, ~~in which event it~~ may sell the contraband at a private sale.

➔Section 102. KRS 244.230 is amended to read as follows:

- (1) ~~[KRS 244.260 and 244.340 notwithstanding,]~~ The regulations of the Bureau of Internal Revenue in the United States Department of the Treasury, ~~[as they are now or may be hereafter,]~~ with respect to the labeling and standards of fill of distilled spirits and wine in their original sealed packages, are adopted and any distilled spirits and wine shall be deemed to be properly labeled under all the laws of this state, if the labels and standards of fill conform to those regulations.
- (2) Distilled spirits not produced or bottled in the United States shall be labeled in the same manner that distilled spirits produced or bottled in this state are required to be labeled.
- (3) Subsections (1) and (2) shall not prevent the department from promulgating **administrative** regulations on this subject that are in addition to but not contrary to the regulations of the Bureau of Internal Revenue in the United States Department of the Treasury.

➔Section 103. KRS 244.240 is amended to read as follows:

- (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a distiller, rectifier, winery, or wholesaler shall:
 - (a) Be interested directly or indirectly in any way in any premises where distilled spirits or wine is sold at retail or in any business devoted wholly or partially to the sale of distilled spirits or wine at retail;
 - (b) Make or cause to be made any loan to any person engaged in the manufacture or sale of distilled spirits or wine at wholesale or retail;
 - (c) Make any gift or render any kind of service whatsoever, directly or indirectly, to any licensee ~~that under KRS 243.030 which~~ may tend to influence the licensee to purchase the product of the distiller, rectifier, winery, or wholesaler; or
 - (d) Enter into a contract with any retail licensee under ~~which KRS Chapters 241 to 244 whereby~~ the licensee agrees to confine ~~the licensee's~~ ~~this or her~~ sales to distilled spirits or wine manufactured or sold by one (1) or more ~~such~~ distillers, rectifiers, wineries, or wholesalers. ***This type of*** ~~Such a~~ contract shall be void.
- (2) Nothing in this section shall prohibit the giving of discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities.
- (3) ***A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler violate this section.***

➔Section 104. KRS 244.260 is amended to read as follows:

- (1) No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than ***fifty (50)*** ~~two hundred (200)~~ milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding ***one and seventy-five hundredths (1.75)*** ~~[1.75]~~ liters of distilled spirits or two hundred twenty (220) liters of wine, ~~and fifty (50) milliliters of distilled spirits~~, as received from the distiller, rectifier, winery, or wholesaler, ~~as the case may be~~. The containers shall ***be in sizes authorized by federal law and*** at all times ***shall*** have affixed to them all labels required by ***federal law or*** the administrative regulations of the board, ~~together with all necessary federal revenue and state excise tax stamps~~.
- (2) ***Except as permitted by KRS 243.055, subsection (4) of Section 46 of this Act, and subsection (3) of this section, licensees holding retail distilled spirits and wine drink licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. All containers shall at all times have affixed to them any labels required by federal law or administrative regulations of the board.***
- (3) ***Licensees holding retail distilled spirits and wine package licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall***

not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. Except as permitted by subsection (2) of this section, all containers shall at all times remain sealed and shall have affixed to them any labels required by federal law or administrative regulations of the board.

➔Section 105. KRS 244.280 is amended to read as follows:

No licensee~~[under KRS 243.030]~~ nor any of ***the licensee's***~~[his]~~ agents, servants, or employees shall peddle any alcoholic beverages from house to house, by any means, where the sale is ***solicited***~~[consummated and delivery made concurrently]~~ at the residence or place of business of the consumer.

➔Section 106. KRS 244.290 is amended to read as follows:

- (1) (a) A ***licensee authorized***~~[premises that is licensed]~~ to sell distilled spirits or wine at retail shall be permitted to ***sell and deliver distilled spirits and wine***~~[remain open]~~ during the hours the polls are open on any primary, or regular, local option, or special election day unless it is located where the legislative body of a city, urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county adopts an ordinance after June 25, 2013, that prohibits the sale of distilled spirits and wine or limits the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day during the hours the polls are open.
- (b) This subsection shall only apply in a wet or moist territory.
- (c) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the fiscal court of a county shall not by ordinance or any other means:
 1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city within that county; or
 2. Impose an action upon a city within that county when that city has taken no formal action pursuant to this subsection.
- (2) In any county containing a city of the first class, or a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as ***permitted by***~~[provided in]~~ KRS 243.050 ***and subsection (4) of this section, a licensee authorized to sell***~~[a premise for which there has been granted a license for the sale of]~~ distilled spirits or wine at retail~~[by the drink or by the package]~~ shall not ***sell or deliver distilled spirits and wine***~~[remain open for any purposes]~~ between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.
- (4) ***A licensee authorized to sell distilled spirits and wine at retail may sell and deliver distilled spirits and wine on Sunday and during the hours and times as permitted by local ordinance of [] unless:***
 - (a) ~~The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or~~
 - (b) ~~[the legislative body of a city, urban-county government, consolidated local government, charter county government, unified local government, or the [fiscal court of a] county with local jurisdiction. These ordinances shall not prohibit the sale, gift, or delivery of distilled spirits or wine between 6 a.m. and midnight any day, except Sunday [has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries].~~
- ~~[(4) In any city or county in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:~~
 - (a) ~~Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and~~
 - (b) ~~Receive less than fifty percent (50%) of their annual food and beverage receipts from the dining facilities from the sale of alcohol.]~~
- (5) In any territory containing a licensed small farm winery that is permitted to sell alcoholic beverages under KRS Chapter 242, the sale of alcoholic beverages at the small farm winery on Sunday may be permitted if:

- (a) The legislative body of the local government having jurisdiction approves by local ordinance the sale of alcoholic beverages on Sunday in strict accordance with the sales permitted by KRS 243.155 on the licensed premises of a small farm winery from 1 p.m. until the prevailing time for that locality; or
 - (b) A limited sale precinct election on the issue of Sunday sales is approved after meeting the requirements of KRS 242.1241.
- (6) In any county containing a city of the first class or in any city located *in that county*~~[therein]~~ in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits ~~administrator~~~~[director]~~ may issue a license to holders of a quota retail drink license or a special private club license ~~that~~~~[which]~~ permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.
- ~~[(7) Any city or county which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 243.072, may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:~~
- ~~(a) The special Sunday retail drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 243.072; and~~
 - ~~(b) The licensed retailers selling distilled spirits and wine by the drink have applied to the state director and meet all other legal requirements for obtaining a special Sunday retail drink license.~~
- ~~(8) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban county government, consolidated local government, charter county government, or unified local government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban county government, consolidated local government, charter county government, or unified local government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban county government, consolidated local government, charter county government, or unified local government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.~~
- ~~(9) Any city or county that has lawfully enacted a regulatory ordinance pursuant to this section prior to August 1, 2014, shall be deemed to meet the requirements for doing so set out in this section and may continue to enforce the ordinance pursuant to the provisions of this section.]~~

➔Section 107. KRS 244.440 is amended to read as follows:

- (1) Every resident and nonresident distiller, rectifier, or winery and nonresident wholesaler who owns, is the primary source of supply, or has an exclusive interest in any particular brands, which are intended for sale or sold in this state, shall be licensed in this state and shall register on a form to be provided by the department, the names of the wholesalers in this state to whom distributing rights have been granted for one or more or all of the brands *and product names* of distilled spirits or wine offered for sale or sold in this state.
- (2) No distiller, rectifier, or winery shall offer to sell or sell, and no wholesaler shall offer to purchase or purchase, any brands *and product names* ~~that~~~~[which]~~ have not been registered as provided by this section.

➔Section 108. KRS 244.461 is amended to read as follows:

- (1) Manufacturers and importers of distilled spirits and wine may advertise and promote, by specific brand and bottle size, distilled spirits and wine for off-premises consumption by use of rebate coupons.
- (2) Rebate coupons are redeemable by the consumer at the point of purchase, or by mail-in certificate by which the consumer receives a cash refund or nonalcoholic beverage merchandise from the manufacturer, importer, or clearinghouse acting for the manufacturer or importer, upon submission by the consumer of the required proof of purchase.
- (3) Rebate coupons on malt beverages are prohibited.
- (4) *Unless prohibited by Section 89 of this Act, loyalty cards issued by retailers that reward customers with product discounts for buying goods or services shall not be prohibited by this section.*

➔Section 109. KRS 244.480 is amended to read as follows:

- (1) Except as *permitted by*~~[provided in]~~ subsection (4) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.

- (2) Except as *permitted by* ~~provided in~~ subsection (4) of this section, *a licensee authorized to sell malt beverages at retail* ~~no retailer~~ shall **not** sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.
- (3) (a) *A licensee authorized to sell malt beverages at retail* ~~retailer~~ may sell malt beverages during the hours the polls are open on a primary, or regular, local option, or special election day unless the *licensee* ~~retailer~~ is located where the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, city, or ~~the fiscal court of a~~ county, in which traffic in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance after June 25, 2013, that prohibits the sale of alcoholic beverages or limits the hours and times in which alcoholic beverages may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day.
- (b) This subsection shall only apply in a wet or moist territory.
- (c) Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the fiscal court of a county shall not by ordinance or any other means:
1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city within that county; or
 2. Impose an action upon a city within that county when that city has taken no formal action pursuant to this subsection.
- (4) *A licensee may sell or deliver malt beverages on Sunday and during the times and hours as permitted by a local ordinance of* the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, city, or county *with local jurisdiction. The ordinance* ~~in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday and any primary, or regular, local option, or special election day sales if the hours so fixed~~ shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday.
- ~~(5) Any city or county that has lawfully enacted a regulatory ordinance pursuant to this section prior to August 1, 2014, shall be deemed to meet the requirements for doing so set out in this section and may continue to enforce the ordinance pursuant to the provisions of this section.~~

➔Section 110. KRS 244.500 is amended to read as follows:

- (1) *Except as permitted by subsection (2) of this section, a licensee* ~~No person holding a license to sell malt beverages~~ shall **not** offer or give anything tangible of value as a premium, *gift, or prize* for:
- (a) The return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing malt beverages; or
- (b) ~~to offer or give anything of value as a premium, gift, or prize for~~ Any purpose in connection with the sale of malt beverages.
- (2) *The following activities shall be permitted:*
- (a) ~~Subsection (1) of this section shall not apply to~~ The return of moneys specifically deposited for the return of the original containers to the owners;
- (b) ~~nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as~~ A premium, gift, or prize *by brewers, wholesalers, or distributors* to wholesalers, distributors, or their employees in connection with sales incentive programs; ~~;~~
- (c) ~~(3)~~ ~~Subsection (1) of this section shall not apply to~~ Brewer-sponsored national sweepstakes in which major prizes, not including rebates, price discount coupons, or brand-related novelty items, are given to consumers based on certificates found in malt beverage packages or on point of sale materials. Malt beverage distributors, retail licensees, and their employees shall not be eligible to redeem the certificates or participate in the national sweepstakes; ~~;~~
- (d) ~~(4)~~ *The sale of* ~~Subsection (1) of this section shall not prohibit brewers, out of state brewers, wholesalers, distributors, or retail licensees from selling~~ malt beverages packaged in or securely bundled with brand-related novelty items if the price charged for the packaged or bundled malt beverages specifically includes the cost of the brand-related novelty item; **and**

- (e) *Loyalty cards issued by retailers that reward customers with points or discounts for buying goods or services.*

➔Section 111. KRS 244.585 is amended to read as follows:

- (1) It shall be unlawful for any distributor to sell any brand *or product name* of malt beverage in the Commonwealth of Kentucky, except in the territory described in a written agreement between the supplier or brewer and distributor, authorizing sale by the distributor of that brand *and product name* within a designated area, and within that designated area the distributor shall not refuse to sell or offer reasonable service to licensed retailers during the normal business hours of the distributor. Where a supplier or brewer sells several brands *and named products*, the agreement need not apply to all brands *and named products* sold by the supplier or brewer and may apply to only one (1) brand *and product name*. No supplier or brewer shall provide by the written agreement for the distribution of a brand *or named product* of malt beverages to more than one (1) distributor for all or any part of the designated territory. Upon request, all territorial agreements shall be filed with the department.
- (2) Each distributor shall comply with *current, written*~~such~~ quality control standards as *determined*~~are specified in writing from time to time~~ by the owner of the trademark of the brand of malt beverage, provided those controls are:
 - (a) Normal industry practice;
 - (b) Reasonably related to the maintenance of quality control;
 - (c) Consistent with the provisions of this chapter and all *administrative* regulations promulgated *under this chapter*~~pursuant thereto~~; and
 - (d) *Communicated to* the distributor *through*~~has received~~ written notice of them from *the*~~such~~ owner.
- (3) A distributor may sell to only those licensed retailers, religious, charitable, or fraternal organizations located within *its*~~his~~ designated geographical territory as provided in this section and to *the distributor's*~~his~~ employees and to other distributors of the same brand. No brand *or product name* of malt beverage may be sold in the Commonwealth of Kentucky without prior written approval of the brewer and supplier filed with the department.
- (4) A territorial designation in any agreement between a distributor and brewer or supplier pursuant to this section shall be modified only in accordance with all the rights and duties of the distributor and brewer or supplier contained in any written agreement between them or by *any*~~such~~ other action of the brewer, supplier, or distributor that is consistent with the terms of their agreement, and *this*~~such~~ modification shall be filed pursuant to the provisions of this section. The board shall require each party to verify that the level of service within the designated territory will not be adversely affected by *the*~~such~~ modification. When a distributor is prevented from selling or servicing retailers within *its*~~his~~ territory due to natural disasters, labor disputes, or other~~such~~ causes beyond *the distributor's*~~his~~ control, the distributor may allow another distributor of the same brand *or named product* of malt beverages to sell and service that brand within *its*~~his~~ territory upon approval of the brewer or supplier.
- (5) No provisions of any agreement shall expressly or impliedly establish or maintain the resale price of any brand *or product name* of malt beverage by the distributor.

➔Section 112. KRS 244.590 is amended to read as follows:

- (1) No brewer or distributor shall induce through any of the following means any retailer selling malt beverages by the package or drink to purchase any malt beverages from *that brewer or distributor*~~him or her~~ to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons~~, if the brewer or distributor engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in commerce in malt beverages~~:
 - (a) By acquiring or holding, after the expiration of any existing license, any interest in any license with respect to the premises of the retailer;
 - (b) By acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of *the retailer's*~~his or her~~ business;
 - (c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other things of value, except as the~~director of the Division of~~ malt beverages *administrator*, having regard for the public health, the quantity and value of the articles

involved, the prevention of monopoly, and the practice of deception, may *permit through the promulgation of an*~~by~~ administrative regulation~~otherwise prescribe~~;

- (d) By paying or crediting the retailer for any advertising, display, or distribution service subject to the exceptions ~~that~~~~which~~ the ~~board~~~~director~~ may *permit through the promulgation of an*~~by~~ administrative regulation~~prescribe~~;
 - (e) By guaranteeing any loan or the repayment of any financial obligation of the retailer; or
 - (f) By requiring the retailer to take and dispose of a certain quota of any malt beverages.
- (2) Notwithstanding any provisions in KRS Chapters 241 to 244 and this section, a brewer or distributor may:
- (a) Give, rent, loan, or sell to any retailer selling malt beverages by the package or drink signs, posters, placards, designs, devices,~~refrigerated coolers,~~ decorations, or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail malt beverage establishment; and
 - (b) Provide or furnish draught-line cleaning or coil-cleaning service to a nonquota retail malt beverage package licensee either directly or indirectly with the consent of the distributor.
- (3) *A retailer shall not require or demand that a brewer or distributor violate this section.*

➔Section 113. KRS 244.990 is amended to read as follows:

- (1) Any person who, ~~alone~~~~by himself or herself~~ or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, ~~the person~~~~he or she~~ shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association,~~or~~ fiduciary, *limited liability company, or other business entity recognized by law*, the principal officer or officers responsible for the violation may be imprisoned.
- (2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction ~~the person~~~~he or she~~ shall be guilty of a Class D felony. Upon the third and each subsequent conviction, ~~the person~~~~he or she~~ shall be guilty of a Class C felony.
- (3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.
- (4) Except as provided in subsection (7) of this section, any person, firm,~~or~~ corporation, *limited liability company, or other business entity recognized by law* violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.
- (5) Except as provided in subsection (7) of this section, any person who violates the provisions of subsection (4) ~~of Section 92 of this Act~~~~(5) of KRS 244.085~~ shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (7) For any person under the age of eighteen (18) years, a violation of *subsections (1), (2), (3), (4), or (7) of Section 92 of this Act*~~KRS 244.085 (2), (3), (4), (5), or (8)~~ shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

➔Section 114. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university police officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

- (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control ~~field representatives and~~ investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
 - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 115. KRS 15.398 is amended to read as follows:

The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all instances the provisions of all statutes specified below shall prevail:

- (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- (3) KRS Chapter 78, relating to county police;
- (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county police;

- (5) KRS Chapter 183, relating to airport safety and security officers;
- (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
- (7) KRS Chapter 18A, relating to all state peace officers;
- (8) KRS 241.090, relating to Department of Alcoholic Beverage Control ~~[field representatives and]~~ investigators;
- (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- (10) Any other statutes affecting peace officers not specifically cited herein.

➔Section 116. KRS 83A.022 is amended to read as follows:

Once a city meets the population criteria established in KRS 67.750, 82.095, 92.281, 96.060, 96.189, 97.120, 99.615, 100.137, 100.209, 100.217, 100.253, 241.160, ~~[242.125, 242.127,]~~ 242.1292, ~~[243.072,]~~ 243.230, 244.290, ~~[244.480,]~~ 244.540, and 281.014 under the most recent federal decennial census and has exercised the powers and duties pursuant to the section, the city shall not thereafter lose the ability to exercise the powers and duties provided in those sections because of an increase or decrease in population in a subsequent federal decennial census, or because of a judgment of a court pursuant to a petition to certify a city's population as different than the federal decennial census made under KRS 81.006. The city shall be permitted to continue to exercise the powers and duties under the applicable section as if it still meets the population requirements provided by the section. However, if there is a conflict between a power or privilege established under a lower population limit and a higher population limit, then the city shall follow the provisions required by the higher population limit.

➔Section 117. KRS 186.560 is amended to read as follows:

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his or her:
 - (a) Conviction of any of the following offenses:
 - 1. Murder or manslaughter resulting from the operation of a motor vehicle;
 - 2. Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;
 - 3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
 - 4. Any felony in the commission of which a motor vehicle is used;
 - 5. Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
 - 6. Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
 - 7. Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
 - 8. Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
 - 9. Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of **subsection (4) of Section 92 of this Act** ~~[KRS 244.085(5)]~~; and
 - 10. Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410; or
 - (b) Being found incompetent to stand trial under KRS Chapter 504.
- (2) If the person convicted of any offense named in subsection (1) of this section or who is found incompetent to stand trial is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.
- (3) The cabinet, upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied, or suspended, or revoked, or while his privilege to operate a

motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

- (4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a)1. of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.
- (5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year. If the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or **subsection (4) of Section 92 of this Act**~~[244.085(5)]~~ as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.
- (6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.
- (7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).
- (8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(a)8. or 9. of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.
- (9) A revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section due to a person being found incompetent to stand trial shall extend until the person is found competent to stand trial or the criminal case is dismissed.

➔Section 118. KRS 230.368 is amended to read as follows:

Any person dissatisfied with the decision of the racing commission under KRS 230.367 may appeal to the Franklin Circuit Court in accordance with the provisions of KRS **Chapter 13B**~~[243.560 to 243.590]~~.

➔Section 119. The following KRS sections are repealed:

119.215 Providing another with intoxicants on election day.

241.075 Location of quota retail package licenses and quota retail drink licenses in cities of the first class or consolidated local governments.

241.130 Salary, oath and bond of county administrator.

241.180 Oath and bond of city administrator and employees.

241.240 Bond.

242.127 Sale of distilled spirits or wine by the drink in wet city with population of 3,000 to 7,999 -- Local option election.

242.129 Statement of proposition submitted in election.

- 242.400 United States license -- Possession evidence of guilt.
- 243.031 Winery licenses.
- 243.072 Economic hardship determinations for regulatory ordinances by a city with population of 3,000 to 7,999 -- Administrative regulations -- Exemption from population requirements.
- 243.370 Local administrator to approve application first.
- 243.460 Refund of license fee.
- 243.505 Operation of pari-mutuel betting system or conduct of licensed charitable gaming not grounds for revocation or suspension of license.
- 243.510 Statement of causes of revocation to be furnished licensee.
- 244.070 Sale to person not providing for his family prohibited.
- 244.087 Minor may stock, arrange displays, and sell malt beverages.
- 244.295 Urban-county government may set liquor sale hours -- Local option on Sunday sales in urban-county -- Licensing -- Sunday sales extension.
- 244.310 Containers that drink retailer may keep upon premises.
- 244.340 Containers that package retailer may purchase, keep, or sell in.
- 244.350 Package retailer not to deliver nor advertise delivery.
- 244.360 Alcoholic beverage retailer to have name and license number on window.

➔Section 120. Section 112 of this Act shall take effect January 1, 2018.

Signed by Governor March 21, 2017.

CHAPTER 63

(HB 195)

AN ACT relating to adult education.

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

➔Section 1. KRS 164.0064 is amended to read as follows:

- (1) ***The Kentucky Adult Education Program within the Council on Postsecondary Education shall promulgate administrative regulations to establish programs aligned with the College and Career Readiness Standards for Adult Education, or any other similar standards adopted by the federal Office of Career, Technical, and Adult Education, which upon successful completion, shall result in the issuance of a High School Equivalency Diploma.***
- (2) ***At least one (1) program authorized under subsection (1) of this section shall include a test aligned with the College and Career Readiness Standards for Adult Education, or any other standards adopted by the federal Office of Career, Technical, and Adult Education, to serve as a qualifying test, which upon passing, shall entitle students to receive a High School Equivalency Diploma.***
- (3) For purposes of any public employment, a High School Equivalency Diploma ~~for a regular high school diploma obtained through participation in the external diploma program~~ shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.
- (4)~~(a)~~ A High School Equivalency Diploma shall be issued without charge upon successfully ***completing a High School Equivalency Diploma program*** ~~passing the test given by the Kentucky Adult Education Program's approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education~~. A fee may be assessed by the Kentucky Adult Education Program for the issuance of a duplicate High School Equivalency Diploma and for issuance

of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

~~[(b) As an alternative to receiving a High School Equivalency Diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The Kentucky Adult Education Program may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.]~~

(5)(2) The Kentucky Adult Education Program is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring *High School Equivalency Diploma program examinations*~~[the GED [examination essay].~~

(6) *On the effective date of this Act, any high school equivalency diploma or external diploma previously recognized or issued by the Commonwealth shall be considered retroactively as a High School Equivalency Diploma.*

(7) *Upon issuance, a High School Equivalency Diploma shall not be invalidated by any subsequent changes in test selection under this section.*

➔Section 2. KRS 164.0062 is amended to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a High School Equivalency Diploma. Incentives shall be provided to full-time employees who complete a High School Equivalency Diploma program within one (1) year and their employers.~~[For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.]~~

(1) The Kentucky Adult Education Program within the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include but not be limited to the criteria for:

- (a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;
- (b) Attendance reports that validate that the student is *enrolled and* studying for the High School Equivalency Diploma during the release time from work;
- (c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the *High School Equivalency Diploma program*~~[high school equivalency diploma tests]~~, and *successfully earns a High School Equivalency Diploma*~~[passes the tests]~~ shall earn a tuition discount of two hundred fifty dollars (\$250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The program shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state tax credit against the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the Kentucky Adult Education Program and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars (\$1250).

➔Section 3. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;

- (2) Be at least twenty-one (21) years of age;
- (3) (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; *or*
- (b) *Possess a High School Equivalency Diploma*~~[Have successfully completed a General Education Development (G.E.D.) examination; or~~
- (c) ~~Have received a high school diploma through participation in the external diploma program];~~
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

➔Section 4. KRS 15.3971 is amended to read as follows:

- (1) A person certified as a court security officer after June 26, 2007, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:
 - (a) Be a citizen of the United States;
 - (b) Be at least twenty-one (21) years of age;
 - (c)
 1. Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; *or*
 2. ***Possess a high school diploma or a High School Equivalency Diploma***~~Have successfully completed a General Educational Development (GED) examination; or~~
 3. ~~Have received a high school diploma through participation in the external diploma program;~~
 - (d) Possess a valid license to operate a motor vehicle;
 - (e) Be fingerprinted for a criminal background check;
 - (f) Not have been convicted of any felony;
 - (g) Not be prohibited by federal or state law from possessing a firearm;
 - (h) Have received and read the Kentucky Law Enforcement Officers Code of Ethics, as established by the council;
 - (i) Have not received a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions if he or she served in any branch of the Armed Forces of the United States;
 - (j) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (k) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a court security officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (l) Have been interviewed by the employing agency;
 - (m) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform court security officer duties; and
 - (n) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his or her suitability to perform court security officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a court security officer to the council, which shall accept them as complying with KRS 15.380 to 15.404.
- (2) A court security officer employed on or before June 26, 2007, shall comply with the requirements of subsection (1) of this section within six (6) months of June 26, 2007.
- (3) A peace officer who has previously attended law enforcement basic training and met the certification requirements of KRS 15.380 and 15.382 shall not be required to meet the requirements of this section to be appointed a court security officer, but shall meet the requirements of KRS 15.386(3).

➔Section 5. KRS 15.540 is amended to read as follows:

- (1) An agency hiring a telecommunicator after July 15, 2006, shall certify to the Department of Criminal Justice Training before admission to the telecommunicator training program that the telecommunicator:
 - (a) Is a citizen of the United States and has reached the age of majority;

- (b) 1. Is a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; *or*
- 2. ***Possesses a High School Equivalency Diploma***~~[Has received a general equivalency diploma (GED); or~~
- 3. ~~Has received a high school diploma through participation in the external diploma program];~~
- (c) Has not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of Kentucky State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the hiring agency;
- (d) Has taken a psychological suitability screening administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own suitability screening shall certify the results to the department;
- (e) Has taken a polygraph examination administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own polygraph examination shall certify the results to the department; and
- (f) Has passed a drug screening administered or approved by the Kentucky Law Enforcement Council. A person shall be deemed to have passed a drug screening if the results are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own screening shall certify passing results to the department.
- (2) Provisions of the Open Records Act, KRS 61.870 to 61.884, to the contrary notwithstanding, the applicant's home address, telephone number, date of birth, Social Security number, and results of any background investigation, psychological suitability screening, and polygraph examination conducted under this section shall not be subject to disclosure.

➔Section 6. KRS 18A.201 is amended to read as follows:

Beginning on July 12, 2006, the requirement of two (2) years of experience related to one (1) or more transportation engineering programs for the job classification of Transportation Engineering Assistant I shall not apply as an experience requirement for the classification. Any applicant who has obtained a high school diploma ***or received a High School Equivalency Diploma***~~[equivalency certificate, or a passing score on the General Educational Development (GED) examination]~~ shall be deemed to have met the educational requirements necessary for the Transportation Engineering Assistant I classification and shall be allowed to take the relevant written examination for the classification.

➔Section 7. KRS 18A.204 is amended to read as follows:

The requirement of a high school diploma ***or a High School Equivalency Diploma***~~[equivalency certificate, or a passing score on the General Educational Development (GED) test]~~ in the Highway Equipment Operator series shall not apply to employees hired prior to July 1, 1999.

➔Section 8. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61.930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

- (1) No person shall be eligible for a commission who:
 - (a) Has been dishonorably discharged from the Armed Forces of the United States;
 - (b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon;
 - (c) Has been convicted of any other offense or offenses more than five (5) times within the previous three (3) years;
 - (d) Has by any court of competent jurisdiction been declared mentally disabled by reason of an intellectual disability or disease and has not been restored; or

- (e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.
- (2) Every person to be eligible for a commission shall:
- (a) Have reached his twenty-first birthday;
 - (b) Provide, on forms supplied by the secretary, such information pertaining to himself as may reasonably be requested thereon, including, but not limited to his: name; age; date of birth; current address and employment; prior addresses and employment for the past ten (10) years; aliases, if any; arrest and conviction record, if any; Social Security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his attestation shall be notarized by one authorized to administer oaths;
 - (c) Be of good moral character;
 - (d) Provide references from two (2) reputable residents of the Commonwealth who are not related to him and who have known him well for a period of not less than three (3) years, attesting to his good character;
 - (e) Pay the fees provided in KRS 61.908; and
 - (f) Provide evidence satisfactory to the secretary that he meets the following requirements:
 1. Is a graduate of an accredited high school or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds **a High School Equivalency Diploma**~~a G.E.D. certificate~~; provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection;
 2. Has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one (1) year within the past five (5) years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States Armed Forces for a period of not less than one (1) year within the past five (5) years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and
 3. Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of these subsections.

➔Section 9. KRS 95.951 is amended to read as follows:

As of July 14, 1992, no person shall be originally appointed or employed as a police officer or an auxiliary police officer by a city, urban-county, or charter county government in the Commonwealth unless he:

- (1) Is at least twenty-one (21) years of age; and
- (2)
 - (a) Is a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; **or**
 - (b) Has received a **High School Equivalency Diploma**~~general equivalency diploma (G.E.D.); or~~
 - ~~(c) Has received a high school diploma through participation in the external diploma program].~~

➔Section 10. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted under KRS 141.0405;
 - (k) The research facilities credit permitted under KRS 141.395;
 - (l) The employer **High School Equivalency Diploma program**~~{GED}~~ incentive credit permitted under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The food donation credit permitted by KRS 141.392;
 - (x) The distilled spirits credit permitted by KRS 141.389; and
 - (y) The angel investor credit permitted by KRS 141.396.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted under KRS 141.0405;
 - (k) The research facilities credit permitted under KRS 141.395;
 - (l) The employer ***High School Equivalency Diploma program***~~[GED]~~ incentive credit permitted under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (o) The environmental stewardship credit permitted by KRS 154.48-025;
 - (p) The clean coal incentive credit permitted by KRS 141.428;
 - (q) The ethanol credit permitted by KRS 141.4242;
 - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (s) The energy efficiency credits permitted by KRS 141.436;
 - (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (v) The railroad expansion credit permitted by KRS 141.386;
 - (w) The Endow Kentucky credit permitted by KRS 141.438;
 - (x) The New Markets Development Program credit permitted by KRS 141.434;
 - (y) The food donation credit permitted by KRS 141.392; and
 - (z) The distilled spirits credit permitted by KRS 141.389.

- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit allowed in KRS 141.383.

➔Section 11. KRS 151B.131 is amended to read as follows:

As used in KRS 151B.131 to 151B.134, unless the context requires otherwise:

- (1) "Board" means the Board of the Kentucky Center for Education and Workforce Statistics established in KRS 151B.134(1);
- (2) "De-identification" means a process for removing identity information so the education data and workforce data can be analyzed without disclosing the identity of the individuals or employers whose data are being utilized;
- (3) "Education data" means the following data relating to student performance from early childhood learning programs through postsecondary education:
 - (a) College and career readiness;
 - (b) Course and grade;
 - (c) Degree, diploma, or credential attainment;
 - (d) Demographic;
 - (e) Educator;
 - (f) Enrollment;
 - (g) Financial aid;
 - (h) High *School Equivalency Diploma*~~[school equivalency diploma]~~;
 - (i) Remediation;
 - (j) Retention;
 - (k) State and national assessments;
 - (l) Transcripts;
 - (m) Vocational and technical education information; and
 - (n) Any other data impacting education deemed necessary by the office;
- (4) "Kentucky Longitudinal Data System" is a statewide data system that contains education data and workforce data;
- (5) "Office" means the Office for Education and Workforce Statistics established in KRS 151B.132(1); and
- (6) "Workforce data" means data relating to:
 - (a) Certification and licensure;
 - (b) Employer information;
 - (c) Employment status;
 - (d) Geographic location of employment;
 - (e) Job service and training information to support enhanced employment opportunities;
 - (f) Wage information; and
 - (g) Any other data impacting the workforce deemed necessary by the office.

➔Section 12. KRS 158.145 is amended to read as follows:

- (1) The General Assembly hereby finds that:

- (a) Little progress has been made in reducing the state's student dropout rate;
 - (b) The number of school dropouts in Kentucky is unacceptable;
 - (c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;
 - (d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;
 - (e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;
 - (f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes, increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and
 - (g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:
- (a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000. All students who drop out of a school during a school year and all students who have not graduated, fail to enroll in the school for the following school year, and do not transfer to another school, shall be included in the statewide annual average school dropout rate, except as provided in KRS 158.6455(1)(b);
 - (b) No school will have an annual dropout rate that exceeds five percent (5%); and
 - (c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or a **High School Equivalency Diploma**~~[GED]~~ than the county had in the year 2000.

➔Section 13. KRS 158.146 is amended to read as follows:

- (1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:
- (a) Analyses of annual district and school dropout data as submitted under KRS 158.148 and 158.6453;
 - (b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy;
 - (c) Comprehensive student programs and services that include, but are not limited to, identification, counseling, mentoring, and other educational strategies for elementary, middle, and high school students who are demonstrating little or no success in school, who have poor school attendance, or who possess other risk factors that contribute to the likelihood of their dropping out of school; and
 - (d) Evaluation procedures to measure progress within school districts, schools, and statewide.
- (2) No state or federal funds for adult education and literacy, including but not limited to funds appropriated under KRS 164.041 or 20 U.S.C. secs. 9201 et seq., shall be used to pay for a high school student enrolled in an alternative program operated or contracted by a school district leading to a certificate of completion or a **High School Equivalency Diploma**~~[General Educational Development (GED) diploma]~~.

- (3) The department, with assistance from appropriate agencies, shall provide technical assistance to districts requesting assistance with dropout prevention strategies and the development of district and schoolwide plans.
- (4) The department shall award grants to local school districts for dropout prevention programs based upon available appropriations from the General Assembly and in compliance with administrative regulations promulgated by the Kentucky Board of Education for this purpose. Seventy-five percent (75%) of the available dropout funds shall be directed to services for at-risk elementary and middle school students, including, but not limited to, identification, counseling, home visitations, parental training, and other strategies to improve school attendance, school achievement, and to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed to services for high school students identified as likely to drop out of school, including, but not limited to, counseling, tutoring, extra instructional support, alternative programming, and other appropriate strategies. Priority for grants shall be awarded to districts that average, over a three (3) year period, an annual dropout rate exceeding five percent (5%).
- (5) The department shall disseminate information on best practices in dropout prevention in order to advance the knowledge for district and school level personnel to address the dropout problem effectively.

➔Section 14. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying successful schools. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.
- (b) The Kentucky Board of Education shall recognize schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). A student shall be included in the annual average dropout rate if the student was enrolled in the school of record for at least thirty (30) days during the school year prior to the day he or she was recorded as dropping out of school. A student shall not be included in a school's annual average dropout rate if:
 1. The student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion or a **High School Equivalency Diploma**~~General Educational Development (GED) diploma~~; or
 2. The student has withdrawn from school and is awarded a **High School Equivalency Diploma**~~General Educational Development (GED) diploma~~ by October 1 of the following school year.
- (c) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by the assessment program established in KRS 158.6453.
- (2) (a) After the academic standards are revised and a new student assessment program is developed pursuant to KRS 158.6453, the Kentucky Board of Education shall create an accountability system to classify districts and schools.
- (b) The accountability system shall include:
 1. The results of program assessments of arts and humanities, practical living skills and career studies, and writing programs;
 2. Student assessment results;
 3. School improvement results; and
 4. Other factors deemed appropriate by the board.
- (c) The board shall determine how student assessment and program assessment data from the 2011-2012 and 2012-2013 school years shall be used and reported within the new accountability system.
- (d) Prior to promulgating administrative regulations to revise the accountability system, the board shall seek advice from the School Curriculum, Assessment, and Accountability Council; the Office of

Education Accountability; the Education Assessment and Accountability Review Subcommittee; and the National Technical Advisory Panel on Assessment and Accountability.

- (3) A student's test scores shall be counted in the accountability measure of:
 - (a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; or
 2. The school in which the student was previously enrolled if the student was enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; and
 - (b) The school district if the student is enrolled in the district for at least a full academic year as defined by the Kentucky Board of Education; and
 - (c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.
- (4) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their accountability measures. The consequences shall be designed to improve the academic performance and learning environment of identified schools and may include but not be limited to:
 - (a) A review and audit process under subsection (5) of this section to determine the appropriateness of a school's or district's classification and to recommend needed assistance;
 - (b) School and district improvement plans;
 - (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
 - (d) Education assistance from highly skilled certified staff under KRS 158.782;
 - (e) Evaluation of school personnel; and
 - (f) Student transfer to successful schools.
- (5) The Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting program reviews and audits.
- (6) All students who drop out of school during a school year shall be included in a school's annual average school graduation rate calculation, except as provided in subsection (1)(b) of this section.
- (7) After receiving the advice of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board. The board shall revise the district accountability system based on the revised assessment program, including program and student assessments, to be implemented in the 2011-2012 school year as required in KRS 158.6453.
- (8) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

➔Section 15. KRS 158.842 is amended to read as follows:

- (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:
- (a) "Concepts" means mathematical ideas that serve as the basis for understanding mathematics;
 - (b) "Mathematics" means the curriculum of numbers and computations, geometry and measurements, probability and statistics, and algebraic ideas;
 - (c) "Mathematics coach" means a mathematics leader whose primary responsibility is to provide ongoing support for one (1) or more mathematics teachers. The role of the coach is to improve mathematics teaching practices by working with teachers in their classrooms, observing and providing feedback to them, modeling appropriate teaching practices, conducting workshops or institutes, establishing learning communities, and gathering appropriate and useful resources;
 - (d) "Mathematics diagnostic assessment" means an assessment that identifies a student at risk of failure in mathematics or a student with major deficits in numeracy and other mathematical concepts and skills;
 - (e) "Mathematics intervention program" means an intensive instructional program that is based on valid research and is provided by a highly trained teacher to specifically meet individual students' needs;
 - (f) "Mathematics leader" means any educator with a specialization in mathematics who:
 1. Serves in a supervisory capacity, such as mathematics department chair, school-based mathematics specialist, or district mathematics supervisor or coordinator; or
 2. Regularly conducts or facilitates teacher professional development, such as higher education faculty or other mathematics teachers;
 - (g) "Mathematics mentor" means an experienced mathematics coach who typically works with beginning or novice teachers only. The responsibilities and roles of the mentor are the same as those of the coach;
 - (h) "Numeracy" means the development of the basic concepts which include counting, place value, addition and subtraction strategies, multiplication and division strategies, and the concepts of time, money, and length. To be numerate is to have and be able to use appropriate mathematical knowledge, concepts, skills, intuition, and experience in relationship to every day life;
 - (i) "Relationships" means connections of mathematical concepts and skills within mathematics; and
 - (j) "Skills" means actions of mathematics.
- (2) The Committee for Mathematics Achievement is hereby created for the purposes of developing a multifaceted strategic plan to improve student achievement in mathematics at all levels of schooling, prekindergarten through postsecondary and adult. At a minimum the plan shall address:
- (a) Challenging curriculum that is aligned prekindergarten through postsecondary, including consensus among high school teachers and postsecondary education faculty about expectations, curriculum, and assessment;
 - (b) Attitudes and beliefs of teachers about mathematics;
 - (c) Teachers' knowledge of mathematics;
 - (d) Diagnostic assessment, intervention services, and instructional strategies;
 - (e) Shortages of teachers of mathematics, including incentives to attract strong candidates to mathematics teaching;
 - (f) Statewide institutes that prepare cadres of mathematics leaders in local school districts, which may include highly skilled retired mathematics teachers, to serve as coaches and mentors in districts and schools;
 - (g) Cohesive continuing education options for experienced mathematics classroom teachers;
 - (h) Closing the student achievement gap among various student subpopulations;
 - (i) Curriculum expectations and assessments of students among the various school levels, prekindergarten, primary, elementary, middle, and high school;
 - (j) Content standards for adult education centers providing mathematics curricula;
 - (k) Introductory postsecondary education mathematics courses that are appropriate to the wide array of academic programs and majors;

- (l) Research to analyze further the issues of transition from high school or *High School Equivalency Diploma*~~[GED]~~ programs to postsecondary education mathematics; and
- (m) The early mathematics testing program under KRS 158.803.

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

- (3) In carrying out its responsibility under subsection (2)(f) of this section, the committee shall:
 - (a) Design a statewide professional development program that includes summer mathematics institutes at colleges and universities, follow-up, and school-based support services, beginning no later than June 1, 2006, to prepare teams of teachers as coaches and mentors of mathematics at all school levels to improve student achievement. Teachers shall receive training in diagnostic assessment and intervention. The statewide initiative shall be funded, based on available funds, from the Teachers' Professional Growth Fund described in KRS 156.553. The design shall:
 - 1. Define the curricula focus;
 - 2. Build on the expertise of specific colleges and universities;
 - 3. Place emphasis on mathematics concepts, skills and relationships, diagnostic assessment, intervention services, and instructional strategies;
 - 4. Identify quality control measures for the delivery of each institute;
 - 5. Establish evaluation procedures for the summer institutes and the other professional development components;
 - 6. Provide updates and networking opportunities for coaches and mentors throughout the school year; and
 - 7. Define other components within the initiative that are necessary to meet the goal of increasing student achievement in mathematics;
 - (b) Require schools and districts approved to have participants in the mathematics leader institutes to provide assurances that:
 - 1. The district and schools have, or will develop, local mathematics curricula and assessments that align with state standards for mathematics;
 - 2. There is a local commitment to build a cadre of mathematics leaders within the district;
 - 3. The district and participating schools will provide in-school support for coaching and mentoring activities;
 - 4. The mathematics teachers are willing to develop classroom assessments that align with state assessments; and
 - 5. Students who need modified instructional and intervention services will have opportunity for continuing education services beyond the regular school day, week, or year; and
 - (c) In addition to the conditions specified in paragraph (b) of this subsection, the committee shall make recommendations to the Kentucky Department of Education and the Kentucky Board of Education for criteria to be included in administrative regulations promulgated by the board which define:
 - 1. Eligible grant recipients, taking into consideration how this program relates to other funded mathematics initiatives;
 - 2. The application process and review;
 - 3. The responsibilities of schools and districts, including but not limited to matching funds requirements, released or extended time for coaches and mentors during the school year, continuing education requirements for teachers and administrators in participating schools, data to be collected, and local evaluation requirements; and
 - 4. Other recommendations requested by the Kentucky Department of Education.
- (4) The committee shall initially be composed of twenty-five (25) members as follows:
 - (a) The commissioner of education or his or her designee;

- (b) The president of the Council on Postsecondary Education or his or her designee;
- (c) The president of the Association of Independent Kentucky Colleges and Universities or his or her designee;
- (d) The executive director of the Education Professional Standards Board or his or her designee;
- (e) The secretary of the Education and Workforce Development Cabinet or his or her designee;
- (f) A representative with a specialty in mathematics or mathematics education who has expertise and experience in professional development, especially with coaching and mentoring of teachers, from each of the nine (9) public postsecondary education institutions defined in KRS 164.001. The representatives shall be selected by mutual agreement of the president of the Council on Postsecondary Education and the commissioner of education;
- (g) Two (2) adult education instructors selected by the vice president for Kentucky Adult Education;
- (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics teachers, appointed by the board of the statewide professional education association having the largest paid membership with approval from their respective local principals and superintendents of schools; and
- (i) Three (3) school administrators, with one (1) each representing elementary, middle, and high school, appointed by the board of the statewide administrators' association having the largest paid membership with approval from their respective local superintendents of schools.

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

- (5) A majority of the full membership shall constitute a quorum.
- (6) Each member of the committee, other than members who serve by virtue of their positions, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that the initial appointments shall be made in the following manner: six (6) members shall serve a one (1) year term, six (6) members shall serve a two (2) year term, and eight (8) members shall serve a three (3) year term.
- (7) A temporary chair of the committee shall be appointed prior to the first meeting of the committee through consensus of the president of the Council on Postsecondary Education and the commissioner of education, to serve ninety (90) days after his or her appointment. Prior to the end of the ninety (90) days, the committee shall elect a chair by majority vote. The temporary chair may be a nominee for the chair by majority vote. Thereafter, a chair shall be elected each calendar year. An individual may not serve as chair for more than three (3) consecutive years. The chair shall be the presiding officer of the committee, and coordinate the functions and activities of the committee.
- (8) The committee shall be attached to the Kentucky Department of Education for administrative purposes. The commissioner of education may contract with a mathematics-trained professional to provide part-time staff support to the committee. The commissioner of education and the president of the council shall reach consensus in the selection of a person to fill the position. The person selected shall have a graduate degree, a mathematics major, and teaching or administrative experience in elementary and secondary education. The person shall not be a current employee of any entity represented on the committee. The department shall provide office space and other resources necessary to support the staff position and the work of the committee.
- (9) The committee, under the leadership of the chair, may organize itself into appropriate subcommittees and work structures to accomplish the purposes of the committee.
- (10) Members of the committee shall serve without compensation but shall be reimbursed for necessary travel and expenses while attending meetings at the same per diem rate promulgated in administrative regulation for state employees under provisions of KRS Chapter 45. Funds shall be provided school districts to cover the cost of substitute teachers for those teachers on the committee at each district's established rate for substitute teachers.
- (11) If a vacancy occurs within the committee during its duration, the board of the statewide professional education association having the largest paid membership or the board of the statewide administrators association having the largest paid membership or the president of the Council on Postsecondary Education, as appropriate, shall appoint a person to fill the vacancy.
- (12) The committee shall:

- (a) Present a draft strategic plan addressing the requirements in subsection (1) of this section and other issues that arose during the work of the committee to the Education Assessment and Accountability Review Subcommittee no later than August 2005;
 - (b) Present the strategic plan for improving mathematics achievement to the Interim Joint Committee on Education by July 15, 2006, which shall include any recommendations that require legislative action; and
 - (c) Provide a final written report of committee activities to the Interim Joint Committee on Education and the Legislative Research Commission by December 1, 2006.
- (13) The committee shall have ongoing responsibility for providing advice and guidance to policymakers in the development of statewide policies and in the identification and allocation of resources to improve mathematics achievement. In carrying out this responsibility, the committee shall periodically review the strategic plan and make modifications as deemed appropriate and report those to the Interim Joint Committee on Education.
- (14) The committee shall collaborate with the Center for Mathematics to ensure that there is ongoing identification of research-based intervention programs for K-12 students who have fallen behind in mathematics, rigorous mathematics curricula that prepare students for the next level of schooling, research-based professional development models that prepare teachers in mathematics and pedagogy, and strategies for closing the gap between high school or *the High School Equivalency Diploma program*~~{GED}~~ and postsecondary mathematics preparation.

➔Section 16. KRS 159.010 is amended to read as follows:

- (1) (a) Except as provided in KRS 159.030 and paragraphs (b) and (c) of this subsection, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his or her sixth birthday and has not passed his or her sixteenth birthday.
 - (b) 1. Effective with the 2015-2016 school year, a local board of education may, upon the recommendation of the superintendent, adopt a district-wide policy to require, except as provided in KRS 159.030, each parent, guardian, or other person residing in the district and having in custody or charge any child who has entered the primary school program or any child between the ages six (6) and eighteen (18) to send the child to a regular public school for the full term of the district in which the child resides or to the public school that the district makes provisions for the child to attend.
 - 2. All children residing in the district, except as provided in KRS 159.030, shall be subject to the local board's compulsory age policy.
 - 3. A district shall impose the same compulsory age requirement for all students residing in the district, even if the district has entered a contract to permit some students to attend school in another public school district that has not adopted a policy under this paragraph.
 - 4. A local board of education adopting a policy under this paragraph shall certify to the Kentucky Department of Education that the district has, or will have, programs in place to meet the needs of potential dropouts. Implementation of the policy shall be contingent on notice of approval by the department.
 - (c) When fifty-five percent (55%) of all local school districts have adopted a policy in accordance with paragraph (b) of this subsection, all local school districts shall be required to adopt the compulsory attendance requirements under paragraph (b) of this subsection. This requirement shall be effective with the school year that occurs four (4) years after the fifty-five percent (55%) threshold is met.
- (2) An unmarried child between the ages of sixteen (16) and eighteen (18) who resides in a district that has not adopted a policy under subsection (1)(b) of this section who wishes to terminate his or her public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his or her designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him. The child and the parent, guardian, or other custodian shall be required to attend a one (1) hour counseling session with a school counselor on potential problems of nongraduates.

- (3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child who is a resident in this state is subject to the laws relating to compulsory attendance, including the compulsory attendance requirements of a school district under subsection (1)(b) of this section. Neither the child nor the person in charge of the child shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his or her parent is a resident of another state.
- (4) Each school district shall contact each student between the ages of sixteen (16) and eighteen (18) who has voluntarily withdrawn from school under subsection (2) of this section within three (3) months of the date of withdrawal to encourage the student to reenroll in a regular program, alternative program, or **High School Equivalency Diploma**~~[GED preparation]~~ program. In the event the student does not reenroll at that time, the school district shall make at least one (1) more attempt to reenroll the student before the beginning of the school year following the school year in which the student terminated his or her enrollment.

➔Section 17. KRS 160.180 is amended to read as follows:

- (1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (2) No person shall be eligible to membership on a board of education:
 - (a) Unless he has attained the age of twenty-four (24) years; and
 - (b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and
 - (c) Unless he has completed at least the twelfth grade or has been issued a **High School Equivalency Diploma**~~[GED certificate or has received a high school diploma through participation in the external diploma program]~~ and he is elected after July 13, 1990; and
 - (d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or
 - (e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or
 - (f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or
 - (g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or
 - (h) Who has been removed from membership on a board of education for cause; or
 - (i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.
- (3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.
- (4) A board member shall be eligible for reelection unless he becomes disqualified.
- (5) The annual in-service training requirements for all school board members in office as of December 31, 2014, shall be as follows:
 - (a) Twelve (12) hours for school board members with zero to three (3) years of experience;
 - (b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and
 - (c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement.

- (6) (a) For all board members who begin their initial service on or after January 1, 2015, the annual in-service training requirements shall be twelve (12) hours for school board members with zero to eight (8) years of experience and eight (8) hours for school board members with more than eight (8) years of experience.
- (b) Training topics for school board members shall include:
 - 1. Three (3) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with zero to three (3) years' experience;
 - 2. Two (2) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with four (4) to seven (7) years' experience; and
 - 3. One (1) hour of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation biennially for members with eight (8) or more years' experience.

The Kentucky Board of Education shall identify criteria for fulfilling this requirement.

➔Section 18. KRS 161.011 is amended to read as follows:

- (1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and
- (b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.
- (2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.
- (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or **High School Equivalency Diploma**~~{GED certificate}~~, or he shows progress toward obtaining a **High School Equivalency Diploma**~~{GED}~~. To show progress toward obtaining a **High School Equivalency Diploma**~~{GED}~~, a person shall be enrolled in a **High School Equivalency Diploma**~~{GED}~~ program and be progressing satisfactorily through the program, as defined by administrative regulations promulgated by the Council on Postsecondary Education.
- (4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a **High School Equivalency Diploma**~~{GED certificate}~~ to enroll in a program to obtain a **High School Equivalency Diploma**~~{GED}~~.
- (5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:
 - (a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
 - (b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.
- (6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

- (8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.
 - (a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.
 - (b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.
 - (c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.
- (9) Local school boards shall develop and provide to all classified employees written policies which shall include but not be limited to:
 - (a) Terms and conditions of employment;
 - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
 - (c) Discipline guidelines and procedures that satisfy due process requirements.
- (10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include but not be limited to suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR). If suicide prevention training is offered it may be accomplished through self-study review of suicide prevention materials.
- (11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

➔Section 19. KRS 161.044 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate administrative regulations governing the qualifications of teachers' aides in the common schools. All teachers' aides working in kindergarten or with entry level students in primary classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall have a high school diploma or a **High School Equivalency Diploma**~~general equivalency diploma~~.
- (2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform their duties and shall meet the requirements established in KRS 161.011 and 160.380(6).
- (3) Within the administrative regulations established by the Kentucky Board of Education, a local district may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the administrative regulations, and as directed by the professional administrative and teaching staff, these personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.
- (4) Local districts shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.
- (5) Local districts shall provide training of the instructional teacher's aide with the certified employee to whom he is assigned.

➔Section 20. KRS 164.0232 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the **High School Equivalency Diploma**~~[GED instruction]~~ program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the President of the Council on Postsecondary Education with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the council.
- (4) The foundation shall be attached to the office of the president of the Council on Postsecondary Education for administrative purposes.

➔Section 21. KRS 164.0234 is amended to read as follows:

- (1) The Kentucky Adult Education Program shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to lifelong learning.
 - (a) Services shall be provided at multiple sites appropriate for adult learning, including vocational and technical colleges, community colleges, comprehensive universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.
 - (b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.
 - (c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.
- (2) Services included as part of the adult education and literacy system shall include but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computing, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.
- (3) In administering an adult education and literacy system, the Kentucky Adult Education Program shall:
 - (a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including **High School Equivalency Diploma program**~~[high school equivalency diploma]~~ preparation~~[the external diploma program]~~, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;
 - (b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;
 - (c) Assist adult educators to meet professional standards;
 - (d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;
 - (e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;
 - (f) Require and monitor compliance with the program's administrative regulations and policies; and

(g) Develop and implement performance measures and benchmarks.

➔Section 22. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or the college admissions examination administered statewide under KRS 158.6453(11)(a)3. if the exam is the ACT, or an equivalent score, as determined by the authority, on the SAT administered by the College Board, Inc.;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means the fall and spring consecutive academic terms within one (1) academic year;
- (6) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (7) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the KEES curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; or
 3. In the Gatton Academy of Mathematics and Science in Kentucky or the Craft Academy for Excellence in Science and Mathematics while meeting the Kentucky educational excellence scholarship curriculum requirements;
 - (c) Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under paragraph (b) 2. of this subsection; and
 - (d) Is not a convicted felon;
- (8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a KEES award;
 - (b) Has the required postsecondary GPA and credit hours required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (10) "Grade point average" or "GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its

equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

- (11) "High school" means any Kentucky public high school, the Gatton Academy of Mathematics and Science in Kentucky, the Craft Academy for Excellence in Science and Mathematics, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (12) "KEES" or "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (13) "KEES award" means:
 - (a) For an eligible high school student, the sum of the KEES base amount for each academic year of high school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and
 - (b) For a student eligible under KRS 164.7879(3)(e), the KEES supplemental amount as adjusted pursuant to KRS 164.7881;
- (14) "KEES award maximum" means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned;
- (15) "KEES base amount" or "base amount" means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879;
- (16) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (7)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (17) "KEES supplemental amount" means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879;
- (18) "KEES trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (19) "On track to graduate" means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study;
- (20) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 1. Is publicly operated;
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates, ~~[-or-]~~ recipients of a **High School Equivalency Diploma**, ~~[General Educational Development (GED) diploma]~~ or students transferring from another accredited degree granting institution; or
 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs; and
- (21) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours.

➔Section 23. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

| | | | |
|-----|--------|-----|--------|
| GPA | Amount | GPA | Amount |
|-----|--------|-----|--------|

| | | | |
|------|----------|------|----------|
| 2.50 | \$125.00 | 3.30 | \$325.00 |
| 2.60 | \$150.00 | 3.40 | \$350.00 |
| 2.70 | \$175.00 | 3.50 | \$375.00 |
| 2.75 | \$187.00 | 3.60 | \$400.00 |
| 2.80 | \$200.00 | 3.70 | \$425.00 |
| 2.90 | \$225.00 | 3.75 | \$437.00 |
| 3.00 | \$250.00 | 3.80 | \$450.00 |
| 3.10 | \$275.00 | 3.90 | \$475.00 |
| 3.20 | \$300.00 | 4.00 | \$500.00 |
| 3.25 | \$312.00 | | |

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c)
 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
 - a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
 2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and

- b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (d) Beginning with the 2013-2014 academic year, a student who meets the Kentucky core academic standards for high school graduation established in administrative regulation and graduates after completing three (3) years of high school shall receive a Kentucky educational excellence scholarship award equivalent to completing high school in four (4) years. The award shall be determined by dividing the total actual KEES scholarship earned under subsection (1) of this section by three (3) and multiplying that number by four (4). The resulting number shall be the annual award the student is eligible for under subsection (1) of this section.
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

| ACT Score | Annual Bonus | ACT Score | Annual Bonus |
|--------------|-----------------|--------------|-----------------|
| 15 | \$21 | 22 | \$171 |
| 16 | \$43 | 23 | \$193 |
| 17 | \$64 | 24 | \$214 |
| 18 | \$86 | 25 | \$236 |
| 19 | \$107 | 26 | \$257 |
| 20 | \$129 | 27 | \$279 |
| 21 | \$150 | 28 or above | \$300 |

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

| ACT Score | Amount | ACT Score | Amount |
|--------------|--------|--------------|--------|
| 15 | \$36 | 22 | \$286 |
| 16 | \$71 | 23 | \$321 |
| 17 | \$107 | 24 | \$357 |
| 18 | \$143 | 25 | \$393 |
| 19 | \$179 | 26 | \$428 |
| 20 | \$214 | 27 | \$464 |
| 21 | \$250 | 28 and above | \$500 |

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in KRS 164.002 to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.

1. The supplemental award for AP examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of three (3);
 - b. Two hundred fifty dollars (\$250) for each score of four (4); and
 - c. Three hundred dollars (\$300) for each score of five (5).
2. The supplemental award for IB examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of five (5);
 - b. Two hundred fifty dollars (\$250) for each score of six (6); and
 - c. Three hundred dollars (\$300) for each score of seven (7).
- (d) Beginning with the 2013-2014 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Cambridge Advanced International as defined in KRS 164.002 to an eligible high school student whose family was eligible for free or reduced-priced lunch for any year during high school enrollment. The supplemental award for Cambridge Advanced International examination scores are as follows:
 1. Two hundred dollars (\$200) for each score of "e";
 2. Two hundred fifty dollars (\$250) for each score of "c" or "d"; and
 3. Three hundred dollars (\$300) for each score of "a*", "a", or "b".
- (e) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a **High School Equivalency Diploma**~~General Educational Development (GED) diploma~~ within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

➔Section 24. KRS 194A.717 is amended to read as follows:

- (1) Staffing in an assisted-living community shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled needs of each client pursuant to the lease agreement and functional needs assessment.
- (2) One (1) awake staff member shall be on site at all times.
- (3) An assisted-living community shall have a designated manager who is at least twenty-one (21) years of age, has at least a high school diploma or a **High School Equivalency Diploma**~~General Educational Development diploma~~, and has demonstrated management or administrative ability to maintain the daily operations.
- (4) No employee who has an active communicable disease reportable to the Department for Public Health shall be permitted to work in an assisted-living community if the employee is a danger to the clients or other employees.

➔Section 25. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution:
 - (a) Shall receive a credit on his or her sentence for:
 1. Prior confinement as specified in KRS 532.120;
 2. Successfully receiving a **High School Equivalency Diploma**~~general equivalency diploma~~ or a high school diploma, a two (2) or four (4) year college degree, a two (2) year or four (4) year degree in applied sciences, a completed technical education program, or an online or correspondence education program, each as provided and defined by the department, or a civics education program that requires passing a final exam, in the amount of ninety (90) days per diploma, degree, or technical education program completed; and
 3. Successfully completing a drug treatment program or other evidence-based program approved by the department, in the amount of not more than ninety (90) days for each program completed; and
 - (b) May receive a credit on his or her sentence for:

1. Good behavior in an amount not exceeding ten (10) days for each month served, to be determined by the department from the conduct of the prisoner;
 2. Performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month; and
 3. Acts of exceptional service during times of emergency, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month.
- (2) Except for a sentencing credit awarded for prior confinement, the department may forfeit any sentencing credit awarded under subsection (1) of this section previously earned by the prisoner or deny the prisoner the right to earn future sentencing credit in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
 - (3) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the sentencing credit computation or in computing dates of expiration of sentence.
 - (4) Until successful completion of the sex offender treatment program, an eligible sexual offender may earn sentencing credit. However, the sentencing credit shall not be credited to the eligible sexual offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all sentencing credit earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, an eligible sexual offender may continue to earn sentencing credit in the manner provided by administrative regulations promulgated by the Department of Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his or her sentence. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release. The provisions of this section shall not apply to any sexual offender convicted before July 15, 1998, or to any sexual offender with an intellectual disability.
 - (5)
 - (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of sentencing credit and the ability to earn sentencing credit in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.
 - (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of sentencing credit forfeited as well as any prohibition imposed on the future earning of sentencing credit.
 - (6) The provisions in subsection (1)(a)2. of this section shall apply retroactively to July 15, 2011.

➔Section 26. KRS 198B.712 is amended to read as follows:

- (1) An individual shall not advertise or claim to be a home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.
- (2) An individual shall not advertise as, claim to be, or engage in or work at the trade of home inspection unless an owner or employee of that business is a licensed home inspector.
- (3) The board shall deny a license to any applicant who fails to:
 - (a) Furnish evidence satisfactory to the board, showing that the individual:
 1. Is at least eighteen (18) years of age;
 2. **Possesses a high school diploma or a High School Equivalency Diploma**~~Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma~~; and
 3. Meets other criteria established by the board through promulgation of administrative regulations;
 - (b) Verify the information submitted on the application form;
 - (c) Complete a board-approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;

- (d) Submit to the board a certificate of insurance that is acceptable to the board and that:
 - 1. Is issued by an insurance company or other legal entity authorized to transact insurance business in Kentucky;
 - 2. Provides for general liability coverage of at least two hundred fifty thousand dollars (\$250,000);
 - 3. Lists the Kentucky Board of Home Inspectors as the certificate holder of any insurance policy satisfying the requirements of this paragraph;
 - 4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days' prior written notice of the cancellation or nonrenewal; and
 - 5. Contains any other terms and conditions established by the board; or
- (e) Pay a licensing fee established in KRS 198B.706.

- (4) An individual applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

➔Section 27. KRS 205.704 is amended to read as follows:

- (1) The cabinet shall undertake a joint planning process with appropriate state, local, and private education institutions, interested agencies, and citizens to ensure that opportunities for low income parents to continue or improve their education shall continue with the implementation of the public assistance program funded by federal block grant dollars under Title IV-A of the Federal Social Security Act, 42 U.S.C. secs. 602 et seq. To this end, by July 31, 1998, the cabinet shall convene and provide staff services for an advisory group of interested parties to evaluate opportunities and strategies and make recommendations for continued participation by low income parents in education activities, including, but not limited to, representatives of:
 - (a) The state university system;
 - (b) The state community college system;
 - (c) Private colleges and universities;
 - (d) State vocational and technical schools;
 - (e) The Kentucky Higher Education Assistance Authority;
 - (f) Basic and secondary education programs, including literacy, adult basic education, *the High School Equivalency Diploma program*~~(GED)~~, and high school programs;
 - (g) Advocacy and citizens groups representing low income parents, including low income parents in sufficient number to represent at least one quarter (1/4) of the total group;
 - (h) Providers of child care and other supportive services; and
 - (i) Two (2) members each from the Senate, as appointed by the President of the Senate, and the House of Representatives, as appointed by the Speaker of the House.
- (2) The cabinet shall prepare a strategic plan for continuation of education opportunities for low income parents, based on the recommendations of the advisory group. The cabinet shall submit the plan to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare no later than July 31, 1999. At a minimum, the plan shall set forth strategies, including any funding necessary, to:
 - (a) Create work study opportunities; and
 - (b) Increase the access to child care funding.

➔Section 28. KRS 237.120 is amended to read as follows:

- (1) The Department of Criminal Justice Training shall operate and maintain a program for firearms instructor trainers for the concealed deadly weapon training program. Only the General Assembly may eliminate the firearms instructor trainer program.
- (2) A firearms instructor trainer shall meet the requirements to be a firearms instructor and shall:
 - (a) Possess a high school diploma or *High School Equivalency Diploma*~~(GED certificate)~~;
 - (b) Successfully complete a firearms instructor trainer course of not more than sixteen (16) hours provided by the department; and

- (c) Possess at least one (1) of the following valid firearms instructor certifications:
 - 1. National Rifle Association Personal Protection Instructor;
 - 2. National Rifle Association Pistol Marksmanship Instructor;
 - 3. Certification from a Kentucky or other firearms instructor course offered by a state or federal governmental agency; or
 - 4. Certification from another firearms instructor training course that has been determined by the Commissioner of the Department of Criminal Justice Training to be equivalent to one (1) of the above listed courses.
- (3) Certification as a firearms instructor trainer shall be valid for a period of three (3) years during which an instructor trainer shall:
 - (a) Conduct or assist in at least one (1) firearms instructor course; or
 - (b) Conduct or assist in at least one (1) applicant training course; and
 - (c) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
 - (d) Not have become ineligible to be a firearms instructor trainer.
- (4) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors. In-service training courses shall be held not less than twice each year in each congressional district and shall be offered at various times during the year ensuring that the maximum number of persons can attend. Preference shall be given to conducting in-service training classes on a Friday or a Saturday. Notice of the time, date, and location for in-service training for each calendar year shall be sent to each firearms instructor trainer and certified firearms instructor by mail or by e-mail not less than thirty (30) days prior to the beginning of the first class for each calendar year. The cost of the in-service training shall be not more than fifty dollars (\$50).
- (5) At the end of the certification period, the department shall issue a new firearms instructor trainer certification to a person who has completed the provisions of this section, unless that firearms instructor trainer notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification. A firearms instructor trainer who has permitted his or her certification to expire may take the in-service course and be recertified for a period of up to one hundred eighty (180) days from the date of expiration of the certification without having to repeat the requirements of subsection (2) of this section.
- (6) The fee for a firearms instructor trainer course shall be not more than one hundred dollars (\$100). No portion of the fee shall be refunded to any student who fails or who does not complete the required course of training.
- (7) Any state agency or public university which owns a firing range shall make that range available to the department for the conduct of in-service training without charge if the department determines that for any particular year's in-service training that range firing is required.

➔Section 29. KRS 316.030 is amended to read as follows:

- (1) No person shall engage in, or attempt to engage in, embalming or funeral directing in the Commonwealth of Kentucky unless the person is licensed under the provisions of this chapter.
- (2) All Kentucky-licensed persons who practice embalming or funeral directing in Kentucky shall practice from a funeral establishment that is licensed to operate under the provisions of this chapter.
- (3) One (1) member of every firm, and one (1) officer and one (1) stockholder of every corporation, that engages in embalming and funeral directing in Kentucky, shall be a Kentucky-licensed embalmer and a Kentucky-licensed funeral director.
- (4) ~~The [One]~~ board shall issue an embalmer's license to an applicant who:
 - (a) Is at least eighteen (18) years of age;
 - (b) Is of good moral character;
 - (c) **Possesses a high school diploma or** ~~Has graduated from high school or possesses~~ a High School Equivalency Diploma;

- (d) Has received an associate degree in funeral services from a college or university accredited by the American Board of Funeral Service Education;
 - (e) Has served an apprenticeship of one (1) year in a Kentucky funeral establishment under the supervision of a Kentucky-licensed embalmer;
 - (f) Has taken an active part during the apprenticeship in assisting with the embalming of at least twenty-five (25) dead human bodies under the direct supervision of a Kentucky-licensed embalmer;
 - (g) Has paid to the board an examination fee of seventy-five dollars (\$75); and
 - (h) Has passed an examination prepared or approved by the board.
- (5) The board shall issue a funeral director's license to an applicant who:
- (a) Is at least eighteen (18) years of age;
 - (b) Is of good moral character;
 - (c) **Possesses a high school diploma or**~~Has graduated from high school or possesses~~ a High School Equivalency Diploma;
 - (d) Has served an apprenticeship of three (3) consecutive years in a Kentucky funeral establishment under the supervision of a Kentucky-licensed funeral director. An associate degree in funeral services from a college or university accredited by the American Board of Funeral Service Education shall substitute for two (2) years of the apprenticeship. The completion of thirty (30) semester credit hours or the equivalent from an accredited college or university shall substitute for one (1) year of the apprenticeship. At no time shall more than two (2) years of the apprenticeship be substituted;
 - (e) Has taken an active part during the apprenticeship in assisting with the management of at least twenty-five (25) funerals under the direct supervision of a Kentucky-licensed funeral director;
 - (f) Has paid to the board an examination fee of seventy-five dollars (\$75); and
 - (g) Has passed an examination prepared or approved by the board.
- (6) An applicant may serve embalming and funeral directing apprenticeships concurrently.
- (7) At the beginning of an apprenticeship, an applicant for an embalmer's or a funeral director's license shall:
- (a) Appear before the board;
 - (b) Pay to the board a registration fee of thirty dollars (\$30); and
 - (c) File with the board the sworn statement of the supervising Kentucky-licensed embalmer or the Kentucky-licensed funeral director averring that the applicant will work full-time under supervision in the funeral establishment and will receive a regular salary.
- (8) An applicant shall work full-time in the funeral establishment during the apprenticeship and shall receive a regular salary.
- (9) An applicant shall file with the board semiannually during the apprenticeship sworn statements by the applicant and the supervising Kentucky-licensed embalmer or Kentucky-licensed funeral director setting out the number of hours worked, the number of embalmings or funerals in which the applicant has assisted, and the salary received.
- (10) A Kentucky-licensed embalmer or a Kentucky-licensed funeral director shall not supervise more than five (5) applicants serving apprenticeships at any one (1) time.

➔Section 30. KRS 317.450 is amended to read as follows:

- (1) (a) The board shall issue a probationary license to practice barbering to any person who:
- 1. Is at least seventeen and one-half (17-1/2) years of age;
 - 2. Is of good moral character and temperate habit;
 - 3. **Possesses a high school diploma, a High School Equivalency Diploma,**~~Has graduated from high school or possesses a General Educational Development (GED) certificate~~ or a transcript from an issuing institution that is recognized by the educational authority in the state from which the diploma, certificate, or transcript is issued;

4. Has graduated from a licensed school of barbering;
 5. Has satisfactorily passed the probationary examination prescribed by the barber board, which shall include a practical assessment of the applicant's skills, including but not limited to a haircut and a chemical application; and
 6. Has paid a fee not to exceed fifty dollars (\$50).
- (b) A barber shall serve a probationary period of six (6) months of continuous service from the effective date of the license issued pursuant to paragraph (a) of this subsection.
 - (c) In addition to the grounds for disciplinary action specified in KRS 317.590, the board may, during the probationary period, require a licensee to retake any part or all of the written or practical examination, or both.
 - (d) At the end of the probationary period, the board shall issue a license to practice barbering to a probationary licensee who has:
 1. Satisfactorily passed the barber examination prescribed by the board by administrative regulations promulgated in accordance with KRS Chapter 13A; and
 2. Complied with all other requirements of this subsection.
 - (e) The board may issue a barber license by endorsement to a resident of another state, district, or territory within the United States of America upon payment of a fee not to exceed two hundred fifty dollars (\$250) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. In the absence of the required equivalency, an applicant from another state, district, or territory within the United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed. The board may also require an applicant under this section to pass a written and practical examination to establish equivalency.
- (2) The board shall:
- (a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee not to exceed fifty dollars (\$50);
 - (b) Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board;
 - (c) Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner; and
 - (d) Allow an unlicensed owner of a barber shop, which is licensed under this chapter and managed by a barber licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner.
- (3) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:
- (a) Applies for a license upon forms furnished by the board;
 - (b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;
 - (c) Has furnished adequate evidence to the board that:
 1. There is an intent to establish a bona fide school for the education and training of competent barbers; and
 2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of twelve (12) months' experience teaching in a barber school that includes administrative experience; and
 - (d) Pays a fee not to exceed one hundred fifty dollars (\$150).
- (4) The board shall issue a license to teach barbering to any person who:
- (a) Is of good moral character and temperate habit;

- (b) ~~*Possesses a high school diploma or a High School Equivalency Diploma*~~~~[Has graduated from high school, or possesses a General Educational Development (GED) certificate];~~
 - (c) Has been a licensed and practicing barber for at least eighteen (18) months;
 - (d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and
 - (e) Has paid a fee not to exceed one hundred dollars (\$100).
- (5) The board shall issue a license to any barber who holds an independent contract owner's license who:
- (a) Is of good moral character and temperate habit;
 - (b) ~~*Possesses a high school diploma or a High School Equivalency Diploma*~~~~[Has graduated from high school, or possesses a General Educational Development (GED) certificate];~~
 - (c) Is a licensed and practicing barber under this chapter; and
 - (d) Has paid a fee not to exceed fifty dollars (\$50).
- (6) Applications for examination required in this section shall be accompanied by an examination fee as follows:
- (a) Barber -- not to exceed three hundred dollars (\$300); and
 - (b) Teaching barbering -- not to exceed one hundred fifty dollars (\$150).
- (7) (a) On and after July 1, 2016, a license issued pursuant to this section shall expire on the first day of July next following the date of its issuance. A license shall be renewed on June 1 through July 1 of each year.
- (b) Any license shall automatically be renewed by the board:
- 1. Upon receipt of the application for renewal or duplicate renewal application form and the required annual renewal license fee submitted either in person or via written or electronic means; and
 - 2. If the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.
- (8) The annual renewal license fee for each type of license renewal shall be as follows:
- (a) Barber -- not to exceed fifty dollars (\$50);
 - (b) Teacher of barbering -- not to exceed fifty dollars (\$50);
 - (c) Barber shop -- not to exceed fifty dollars (\$50);
 - (d) Barber school -- not to exceed one hundred fifty dollars (\$150); and
 - (e) Independent contract owner -- not to exceed fifty dollars (\$50).
- (9) (a) The fee per year for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:
- 1. Barber -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - 2. Barber shop -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - 3. Barber school -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - 4. Teacher of barbering -- not to exceed twenty-five dollars (\$25) plus lapse fees; and
 - 5. Independent contract owner - - not to exceed twenty-five dollars (\$25) plus lapse fees.
- (b) An applicant who fails to renew a license within five (5) years of its expiration shall comply with the requirements for relicensure established by the board through promulgation of administrative regulations in accordance with KRS Chapter 13A.

➔Section 31. KRS 317A.050 is amended to read as follows:

- (1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:
- (a) Is of good moral character and temperate habit;

- (b) Is at least sixteen (16) years of age;
 - (c) Has a high school diploma, **a *High School Equivalency Diploma***~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (d) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has graduated from a licensed school of cosmetology requiring one thousand eight hundred (1,800) hours within ten (10) years of submitting an application for licensure;
 - (e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and
 - (f) Has paid a fee of twenty-five dollars (\$25).
- (2) The cosmetologist board shall issue a cosmetologist license to any person who:
- (a) Has a high school diploma, **a *High School Equivalency Diploma***~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and
 - (d) Has paid a fee of twenty-five dollars (\$25).
- (3) The cosmetologist board shall issue a license to act as a nail technician to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology within ten (10) years of submitting an application for licensure;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;
 - (d) Has a high school diploma, **a *High School Equivalency Diploma***~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school; and
 - (e) Has paid a fee of twenty-five dollars (\$25).
- (4) (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he or she shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.
- (b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.
- (c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection.
- (5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:
- (a) Has paid a fee of thirty-five dollars (\$35);

- (b) Has a high school diploma, *a High School Equivalency Diploma*~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school and one (1) year experience as a licensed cosmetologist; and
 - (c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall verify to the board the completion of one thousand (1,000) hours. For out-of-state verification, an applicant shall provide official certification from the board or agency that certifies schools in that other state of licensure verifying the applicant has completed a course of instruction consisting of at least one thousand (1,000) hours and not less than six (6) months at one (1) school providing the instruction.
- (6) The cosmetologist board shall issue a license to teach cosmetology to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has a high school diploma, *a High School Equivalency Diploma*~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (c) Has held an apprentice instructor license for at least six (6) months;
 - (d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and
 - (e) Has paid a fee of fifty dollars (\$50).
- (7) The cosmetologist board may issue a license to operate a school of cosmetology to any person who:
- (a) Has complied with the administrative regulations promulgated by the board including but not limited to administrative regulations governing the necessary equipment, supplies, and facilities;
 - (b) Has furnished proof to the board that the school of cosmetology is needed, that he or she is otherwise qualified to operate a school of cosmetology, and that he or she intends to establish a bona fide school for the education and training of competent cosmetologists and that he or she will employ a sufficient number of licensed instructors of cosmetology to conduct the school;
 - (c) Has as manager at all times a person who is:
 - 1. Licensed as an instructor;
 - 2. Charged with the responsibility of ensuring that all applicable statutes and administrative regulations are complied with; and
 - 3. Responsible for having a sufficient number of licensed instructors of cosmetology to conduct the school.

The designated manager shall be approved by the board before a license may be issued;
 - (d) Complies with the administrative regulations promulgated by the board including but not limited to those regarding courses, curriculum, and hours of instruction;
 - (e) Otherwise complies with this chapter;
 - (f) Has paid a fee of one thousand five hundred dollars (\$1,500);
 - (g) Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;
 - (h) Any student enrolling in the school shall pay a fee of fifteen dollars (\$15) to the board before enrollment in the school shall be allowed; and
 - (i) The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand five hundred dollars (\$1,500).
- (8) Licenses and permits issued by the board may be renewed upon receipt, beginning July 1 through July 31 of each year. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this

chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired, and the appropriate restoration fee required by subsection (11) of this section shall apply.

- (9) The annual renewal license or permit fee for each type of license or permit renewal shall be as follows:
 - (a) Apprentice cosmetologist -- \$20;
 - (b) Cosmetologist -- \$20;
 - (c) Nail technician -- \$20;
 - (d) Beauty salon -- \$25;
 - (e) Nail salon -- \$25;
 - (f) Apprentice instructor of cosmetology -- \$25;
 - (g) Instructor of cosmetology -- \$35;
 - (h) Cosmetology school -- \$150;
 - (i) Threading permit -- \$20; and
 - (j) Threading facility permit -- \$25.
- (10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:
 - (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) Instructor of cosmetology -- \$100;
 - (e) Cosmetologist out-of-state -- \$120; and
 - (f) Instructor out-of-state -- \$200.
- (11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:
 - (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) Beauty salon -- \$75;
 - (e) Nail salon -- \$75;
 - (f) Cosmetology school -- \$750;
 - (g) Instructor -- \$100; and
 - (h) Apprentice instructor -- \$75.
- (12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:
 - (a) Cosmetologists shall retake and pass the practical examination only;
 - (b) Apprentice cosmetologists shall complete four hundred fifty (450) additional hours training in a licensed school of cosmetology and pass all the prescribed examinations;
 - (c) Instructors of cosmetology shall retake and pass both the practical and theory examination;
 - (d) Nail technicians shall retake and pass the practical and theory examination; and
 - (e) The appropriate restoration fee as set forth in subsection (11) of this section shall be required.
- (13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists, and nail technicians shall pay a fee of fifty dollars (\$50) for a permit that shall be in effect for

ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, cosmetology school, or nail technicians group shall apply for a permit, but shall not be required to pay the fee.

- (14) The board shall issue a permit for threading and may promulgate administrative regulations that set out requirements for the practice of threading upon payment of a fee of twenty dollars (\$20). Threading shall be conducted in a licensed beauty salon or facility permitted to engage in threading, and the board may promulgate administrative regulations for facilities and the required sanitation standards.
- (15) The fee for certification shall be twenty dollars (\$20).
- (16) The fee for a duplicate license shall be twenty-five dollars (\$25).

➔Section 32. KRS 317B.025 is amended to read as follows:

- (1) The board shall issue an esthetician license to any person who:
 - (a) Is of good moral character and temperate habit;
 - (b) Is at least eighteen (18) years of age;
 - (c) Has a high school diploma, *a High School Equivalency Diploma*~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (d) Has satisfactorily completed one thousand (1,000) hours of instruction in a licensed school approved by the board;
 - (e) Has received a satisfactory grade on an examination prescribed by the board to determine fitness to practice as an esthetician; and
 - (f) Has paid a fee of at least seventy-five dollars (\$75) to be adjusted as needed in administrative regulations promulgated by the board.
- (2) The board may issue a license to a cosmetologist who seeks dual licensure as an esthetician by offering a dual cosmetologist and esthetician license to individuals who meet licensure criteria for a cosmetologist as in KRS Chapter 317A and licensure criteria for an esthetician as in this chapter. The fee for the dual license for license renewal shall be determined by the board as promulgated in administrative regulations. Nothing in this chapter shall prohibit separate licensure of cosmetologists and estheticians.
- (3) The board shall issue licenses as follows:
 - (a) A license to operate an esthetic salon shall be issued to any licensed esthetician upon receipt of:
 - 1. The completed application; and
 - 2. A fee of at least one hundred twenty-five dollars (\$125) to be adjusted as needed in administrative regulations promulgated by the board.
 - (b) If an owner is not a licensed esthetician, the owner shall have a licensed esthetician manage the esthetic salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.
 - (c) Licensed esthetic salons shall have the furnishings and salon equipment required pursuant to administrative regulations adopted by the board.
 - (d) Any licensed esthetician who leases or rents space or pays a fee to do business in a beauty salon or esthetic salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a), (b), and (c) of this subsection.
 - (e) The board may refuse to issue a license if the applicant fails to comply with this chapter or the administrative regulations promulgated by the board.
- (4) The board shall issue a license to teach esthetic practices to any person who:
 - (a) Is of good moral character and temperate habit;
 - (b) Is at least eighteen (18) years of age;
 - (c) Has a high school diploma, *a High School Equivalency Diploma*~~[General Educational Development (GED) diploma]~~, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;

- (d) Holds a current cosmetologist and instructor's license;
 - (e) Has completed fifty (50) hours in esthetics training within the last two (2) years;
 - (f) Has received a satisfactory grade on the examination for the teaching of esthetics as prescribed by the board; and
 - (g) Has paid a fee promulgated by the board in administrative regulations.
- (5) The board may issue a license to teach esthetic practices to an individual with two (2) or more years' experience in teaching esthetic practices in another jurisdiction who meets the requirements of paragraphs (a), (b), and (c) of subsection (3) of this section.
- (6) Courses in esthetic practices may be taught at any licensed cosmetology school that complies with the administrative regulations promulgated by the board under this chapter.
- (7) Applications for esthetician examinations required by this section shall be accompanied by an examination fee of at least one hundred twenty-five dollars (\$125) to be adjusted as needed in administrative regulations promulgated by the board.

➔Section 33. KRS 326.040 is amended to read as follows:

A license as an ophthalmic dispenser shall be issued by the board to any person who pays a fee of fifty dollars (\$50) and submits evidence under oath satisfactory to the board:

- (1) That he or she is more than eighteen (18) years of age and of good moral character;
- (2) That he or she ***possesses a high school diploma or a High School Equivalency Diploma***~~has graduated from high school or possesses a General Educational Development (GED) certificate~~;
- (3) That he or she has at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, physician, osteopath, or optometrist, or is a graduate of an accepted school of ophthalmic dispensing;
- (4) That he or she has passed a satisfactory examination in ophthalmic dispensing approved by the board.

➔Section 34. KRS 342.730 is amended to read as follows:

- (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:
 - (a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.
 - (b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," times the factor set forth in the table that follows:

| AMA Impairment | Factor |
|----------------|--------|
| 0 to 5% | 0.65 |
| 6 to 10% | 0.85 |
| 11 to 15% | 1.00 |
| 16 to 20% | 1.00 |
| 21 to 25% | 1.15 |
| 26 to 30% | 1.35 |
| 31 to 35% | 1.50 |
| 36% and above | 1.70 |

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

- (c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or
2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.
3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a **High School Equivalency Diploma**~~[high school General Educational Development diploma]~~, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).
4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.
- (d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.
- (e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.
- (2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.
- (3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his or her lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at

his or her death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

- (a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or
 - (b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or
 - (c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or
 - (d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.
 - (e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.
- (4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.
 - (5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.
 - (6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.
 - (7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

➔Section 35. KRS 342.732 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:
 - (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.
 - 2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education

program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.

3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a **High School Equivalency Diploma**~~[General Equivalency Diploma (GED)]~~ in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.
 4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars (\$5,000).
 5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.
 6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars (\$5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars (\$10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.
 7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.
 8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).
 9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.
 10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred;
- (b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty

percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under paragraph (a)1. to 6. of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1. to 6. of this subsection to extend the period of disability;
- (c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks;
 - (d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability; and
 - (e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.
- (2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.
 - (3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his or her decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas

studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the time of the arterial blood gas study.

- (4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the Office of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the Office of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342.1242 notwithstanding.
- (5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:
 - (a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;
 - (b) Establish requirements for approval and certification of a bona fide training or education program;
 - (c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;
 - (d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and
 - (e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the Kentucky Adult Education Program within the Council on Postsecondary Education as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.
- (6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

➔Section 36. KRS 533.200 is amended to read as follows:

- (1) A person convicted of a misdemeanor or violation who has not received a graduation certificate from high school or has not **obtained a High School Equivalency Diploma**~~[passed the general educational development test (GED) or has not obtained a high school diploma through participation in the external diploma program]~~ may, in addition to or in lieu of any other penalty provided by law, be sentenced to attend and successfully complete a program designed to improve his reading, living, and employment skills. Attendance at such program shall be deemed a form of probation and all provisions of the law with respect to probation, including restitution to victims, shall apply.
- (2) A person convicted of a felony who has not received a graduation certificate from high school or has not **obtained a High School Equivalency Diploma**~~[passed the general educational development test (GED) or has not obtained a high school diploma through participation in the external diploma program]~~ may, in addition to any other penalty provided by law, be sentenced to attend and successfully complete a program designed to improve his reading, living, and employment skills. Attendance at such program shall be deemed a form of probation and all provisions of the law with respect to probation, including restitution to victims, shall apply.
- (3) The provisions of this section shall not apply to an individual with an intellectual or other disability that is so severe that he would not reasonably be expected to benefit from or complete the program.

Signed by Governor March 21, 2017.

CHAPTER 64

(SB 8)

AN ACT relating to the use of public resources.

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

➔Section 1. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

- (1) "Abortion" ~~means~~^{shall mean} the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death;
- (2) *"Accepted medical procedures" means procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients;*
- (3) *"Cabinet" means the Cabinet for Health and Family Services of the Commonwealth of Kentucky;*
- (4) *"Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent means an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for health and family services;*
- (5) *"Family planning services" means educational, medical, and social services and activities that enable individuals to determine the number and spacing of their children and to select the means by which this may be achieved;*
- (6) *"Fetus" means a human being from fertilization until birth;*
- (7) *"Hospital" means those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216;*
- (8) *"Human being" means any member of the species homo sapiens from fertilization until death;*
- (9) *"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;*
- (10) *"Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion;*
- (11) *"Partial-birth abortion" means an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery;*
- (12) *"Physician" means any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to this chapter;*
- (13) *"Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the abortion is planned to be performed;*
- (14) *"Public agency" means the Commonwealth of Kentucky, any agency, department, entity, or instrumentality thereof, any city, county, agency, department, entity, or instrumentality thereof, or any other political subdivision of the Commonwealth, agency, department, entity, or instrumentality thereof;*
- (15) *"Vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus; and*

- (16) *"Viability" means that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother*;
- (2) ~~"Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216;~~
- (3) ~~"Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for health and family services;~~
- (4) ~~"Cabinet" shall mean the Cabinet for Health and Family Services of the Commonwealth of Kentucky;~~
- (5) ~~"Fetus" shall mean a human being from fertilization until birth;~~
- (6) ~~"Human being" shall mean any member of the species homo sapiens from fertilization until death;~~
- (7) ~~"Partial birth abortion" shall mean an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery;~~
- (8) ~~"Vaginally delivers a living fetus before killing the fetus" shall mean deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus;~~
- (9) ~~"Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter;~~
- (10) ~~"Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother;~~
- (11) ~~"Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients;~~
- (12) ~~"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;~~
- (13) ~~"Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion; and~~
- (14) ~~"Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the abortion is planned to be performed~~;

➔Section 2. KRS 311.715 is amended to read as follows:

- (1) ~~[No]Public agency funds shall not be used for the purpose of obtaining an abortion or paying for the performance of an abortion. Public medical facilities may be used for the purpose of conducting research into or the performance of in-vitro fertilization as long as such procedures do not result in the intentional destruction of a human embryo. For purposes of this section, "public funds" means any money of the Commonwealth of Kentucky, any department, agency or instrumentality thereof, or any money of any county, city, agency or instrumentality thereof or any money of any other political subdivision of the Commonwealth, agency or instrumentality thereof.~~
- (2) (a) *Public agency funds shall not be directly or indirectly used, granted, paid, or distributed to any nonpublic entity or organization described in paragraph (b)3. of this subsection. This paragraph shall not apply to funding available through KRS 205.510 to 205.560 to the minimum extent necessary to comply with federal conditions for the state's participation in the program established by KRS 205.510 to 205.560 or to funding that is used to provide abstinence education in schools.*
- (b) *Notwithstanding any other state law to the contrary, all federal family planning funds shall be awarded to eligible individuals, organizations, or entities applying to be family planning contractors in the following order of descending priority:*
1. *Public agencies that directly provide family planning services, including state, county, and local community health clinics and federally qualified health centers;*

2. *Nonpublic entities that directly provide basic health services, as described in 42 U.S.C. sec. 254b(b)(1)(A), including family planning services; and*
 3. *Nonpublic entities that directly provide only family planning services but do not provide all basic health services as described in 42 U.S.C. sec. 254b(b)(1)(A).*
- (c) *This subsection shall be effective upon repeal of federal regulations prohibiting states from prioritizing recipients of federal Public Health Service Act, Title X Family Planning Program funds.*
- (3) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (4) Nothing in this section shall be construed to allow public funds to pay for in-vitro fertilization procedures performed on any individual patient.

Signed by Governor March 21, 2017.

CHAPTER 65

(SB 21)

AN ACT relating to use of experimental treatments for terminal illnesses.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

- (1) *"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, protein other than a chemically synthesized polypeptide, allergenic product or analogous product, or arsphenamine or derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings;*
- (2) *"Device" has the same meaning as in KRS 217.015;*
- (3) *"Drug" has the same meaning as in KRS 217.015;*
- (4) *"Eligible patient" means an individual who meets the requirements of Section 3 of this Act;*
- (5) *"Health care provider" means a licensed physician, a licensed advanced practice registered nurse, or a licensed physician assistant;*
- (6) *"Health facility" has the same meaning as in KRS 216B.015;*
- (7) *"Investigational drug, biological product, or device" means a drug, biological product, or device that:*
 - (a) *Has successfully completed Phase I of a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration; and*
 - (b) *Remains under investigation in a United States Food and Drug Administration-approved clinical trial;*
- (8) *"Terminal illness" means a progressive disease or a medical or surgical condition that:*
 - (a) *Entails significant functional impairment;*
 - (b) *Is not considered by a treating health care provider to be reversible even with administration of a treatment currently approved by the United States Food and Drug Administration; and*
 - (c) *Without life-sustaining procedures, will result in death; and*
- (9) *"Written informed consent" means a written document that meets the requirements of Section 4 of this Act.*

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

- (1) *A manufacturer of an investigational drug, biological product, or device may make the investigational drug, biological product, or device available to an eligible patient who has requested it pursuant to Sections 1 to 8 of this Act.*
- (2) *The manufacturer may:*
 - (a) *Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation; or*
 - (b) *Require an eligible patient to pay the costs of or the costs associated with the manufacture of the investigational drug, biological product, or device.*
- (3) *A manufacturer shall not be required to make an investigational drug, biological product, or device available to an eligible patient.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

A patient shall be eligible for treatment with an investigational drug, biological product, or device if the patient has:

- (1) *A terminal illness that is attested to by the patient's treating health care provider;*
- (2) *Considered all other treatment options currently approved by the United States Food and Drug Administration;*
- (3) *Received a recommendation from the patient's treating health care provider for an investigational drug, biological product, or device;*
- (4) *Given written informed consent for the use of the investigational drug, biological product, or device; and*
- (5) *Has documentation from the treating health care provider that the patient meets the requirements of this section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A patient or a patient's legal guardian shall provide written informed consent for treatment with an investigational drug, biological product, or device.*
- (2) *At a minimum, the written informed consent shall include:*
 - (a) *An explanation of the currently approved products and treatments for the disease or condition from which the patient suffers;*
 - (b) *An attestation that the patient concurs with the treating health care provider's belief that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;*
 - (c) *Clear identification of the specific investigational drug, biological product, or device that the patient is seeking to use;*
 - (d) *A description of the potentially best and worst outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome;*
 - (e) *A statement that the patient's health plan or third-party administrator and provider shall not be obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device unless they are specifically required to do so by law or contract; and*
 - (f) *A statement that the patient understands that the patient shall be liable for all expenses related to the use of the investigational drug, biological product, or device and that the liability for expenses extends to the patient's estate, unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.*
- (3) *The description of potential outcomes required under subsection (2)(d) of this section shall:*
 - (a) *Include the possibility that new, unanticipated, different, or worse symptoms may result and that the proposed treatment may hasten death; and*
 - (b) *Be based on the treating health care provider's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.*
- (4) *The written informed consent shall be:*

- (a) *Signed by:*
1. *The patient;*
 2. *A parent or legal guardian, if the patient is a minor; or*
 3. *A legal guardian, if a guardian has been appointed for the patient; and*

(b) *Attested to by the patient's treating health care provider and a witness.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) *Sections 1 to 8 of this Act shall not:*

- (a) *Expand the coverage required of an insurer;*
- (b) *Affect the requirements for insurance coverage of routine patient costs for patients involved in approved cancer clinical trials;*
- (c) *Require a health plan, third-party administrator, or governmental agency to pay costs associated with the use, care, or treatment of an eligible patient with an investigational drug, biological product, or device; or*
- (d) *Require a hospital or health facility to provide new or additional services.*

(2) *A health plan, third-party administrator, or governmental agency may provide coverage for the cost of an investigational drug, biological product, or device or the cost of services related to the use of an investigational drug, biological product, or device under Sections 1 to 8 of this Act.*

(3) *A hospital or health facility may approve the use of an investigational drug, biological product, or device in the hospital or health facility.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

If an eligible patient dies while being treated with an investigational drug, biological product, or device, the patient's heirs are not liable for any outstanding debt related to the treatment or to a lack of insurance as a result of the treatment.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A licensing board shall not revoke, fail to renew, suspend, or take any action against a licensed health care provider based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.*
- (2) *The Cabinet for Health and Family Services shall not take action against a health care provider's Medicare or Medicaid certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product, or device.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *An official, employee, or agent of the Commonwealth of Kentucky shall not block or attempt to block an eligible patient's access to an investigational drug, biological product, or device.*
- (2) *Counseling, advice, or a recommendation consistent with medical standards of care from a licensed health care provider shall not be considered a violation of this section.*

Signed by Governor March 21, 2017.

CHAPTER 66

(SB 38)

AN ACT relating to timber theft.

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

➔Section 1. KRS 364.130 is amended to read as follows:

- (1) Except as provided in ~~subsections~~ ~~[subsection]~~ (2) **and (4)** of this section, any person, ***regardless of state of mind or whether the person believes to be authorized or not,*** who cuts or saws down, or causes to be cut or sawed down ~~[with intent]~~ to convert to his own use timber growing upon the land of another without legal right or without color of title in himself to the timber or to the land upon which the timber was growing shall pay to the rightful owner of the timber three (3) times the stumpage value of the timber and shall pay to the rightful owner of the property three (3) times the cost of any damages to the property as well as any legal costs incurred by the owner of the timber.
- (2) (a) If a defendant can certify that prior to cutting:
1. A signed statement was obtained from the person whom the defendant believed to be the owner of all trees scheduled to be cut that:
 - a. All of the trees to be cut were on his property and that none were on the property of another; and
 - b. He has given his permission, in writing, for the trees on his property to be cut; and
 2. Either:
 - a. A written agreement was made with owners of the land adjacent to the cut that the trees to be cut were not on their property; or
 - b. Owners of the land adjacent to the cut were notified in writing, delivered by certified mail, restricted delivery, and return receipt requested, of the pending cut and they raised no objection,

the court may render a judgment for no more than the reasonable value of the timber, actual damages caused to the property, and any legal costs incurred by the owner of the timber.
- (b) With respect to subsection (2)(a)2.b. of this section, if no written objection was received from the persons notified within seven (7) days from the date of signed receipt of mail, it shall be presumed, for the purposes of setting penalties only, that the notified owner had no objection to the proposed cut.
- (3) This section shall not be construed as repealing any of the provisions of KRS 514.030 of the Kentucky Revised Statutes and any penalties provided by this chapter shall be considered as additional thereto.
- (4) ***A residential property owner or farmland owner maintaining his or her fence row who unintentionally cuts, saws down, or otherwise removes the timber of an adjoining property owner as the result of a good-faith mistake in the location of an unmarked boundary line between the properties shall only be liable to the adjoining property owner for the reasonable value of the timber, the actual damages caused to the property, and any legal costs incurred by the adjoining property owner if the cutting of the timber is later found to be unauthorized by a court of competent jurisdiction.***

Signed by Governor March 21, 2017.

CHAPTER 67

(SB 39)

AN ACT relating to jailers and declaring an emergency.

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

➔Section 1. KRS 441.245 is amended to read as follows:

- (1) The jailer who operates a full-service jail shall receive a monthly salary pursuant to any salary schedule in KRS Chapter 64 applicable to jailers operating a full service jail from the county jail operating budget.
- (2) No jailer holding office in the Commonwealth on or after January 6, 1999, shall receive an annual salary of less than twenty thousand dollars (\$20,000).
- (3) (a) The salaries of jailers who are not subject to any salary schedule in KRS Chapter 64 may be set at a higher level if the salary does not exceed the constitutional salary limit applicable to jailers. These

jailers' salaries shall at least equal the prior year's level and may be adjusted by the fiscal court for the change in the prior year's consumer price index according to the provisions of KRS 64.527.

(b) For jailers governed by this subsection:

- 1. By May 1 of each year, the fiscal court shall pass a resolution detailing:**
 - a. The duties to be performed by the jailer in the upcoming fiscal year; and**
 - b. The compensation for the jailer for the upcoming fiscal year, including any cost-of-living adjustments according to the provisions of KRS 64.527; and**
- 2. On a quarterly basis, jailers shall submit to the fiscal court a summary of all official duties performed by the jailer and the jailer's deputies, to include information related to prisoner transport, including but not limited to:**
 - a. The prisoner's name;**
 - b. The location and time the prisoner was placed in the custody of the jailer or the jailer's deputies for transport;**
 - c. The location and time the jailer or the jailer's deputies relinquished custody of the prisoner after transport; and**
 - d. The mileage driven.**

➔Section 2. Whereas it is vital that the financial administration of counties be as transparent as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 68

(SB 50)

AN ACT relating to the school calendar.

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

➔Section 1. KRS 158.070 is amended to read as follows:

(1) As used in this section:

- (a) "Election" has the same meaning as in KRS 121.015;**
- (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;**
- (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year *or variable student instructional year*, and days that school will not be in session;**
- (d) "School district calendar committee" means a committee consisting of:**
 - 1. One (1) school district principal;**
 - 2. One (1) school district office administrator other than the superintendent;**
 - 3. One (1) member of the local board of education;**
 - 4. Two (2) parents of students attending a school in the district;**
 - 5. One (1) school district elementary school teacher;**
 - 6. One (1) school district middle or high school teacher;**
 - 7. Two (2) school district classified employees; and**

8. *Two (2) community members from the local chamber of commerce, business community, or tourism commission;*
 - (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
 - ~~(f)(e)~~ "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;~~and~~
 - ~~(g)(f)~~ "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; ~~and~~ ~~f~~
 - (h) *"Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred and seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.*
- (2) (a) *Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually **appoint a school district calendar committee to review, develop, and recommend school calendar options.***
 - (b) *The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.*
 - (c) *Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.*
 - (d) *During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.*
 - (e) *For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.*
 - (f) *Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.*
- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
 - (b) In addition to the four (4) days required under paragraph (a) of this subsection, a minimum of two (2) hours of self-study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year.

- (c) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
 - 1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 - 2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
- (e) Each local board may use two (2) days for planning activities without the presence of students.
- (f) Each local board may close schools for the number of days deemed necessary for:
 - 1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 - 2. Local emergency which would endanger the health or safety of children; and
 - 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f)(e) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f)(e) of this section **or a variable student instructional year in subsection (1)(h) of this section.** No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (5) (a)
 - 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
 - 2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
 - 3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
 - 4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.

5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
- (b) 1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
2. A district may be open on the day of an election if no school in the district is used as a polling place.
- (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
 1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
- (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- (8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.
- (9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f)~~(e)~~ of this section, ***or a variable student instructional year in subsection (1)(h) of this section***, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have an alternative instruction plan approved by the commissioner of education for the use of alternative methods of instruction, including virtual learning, on days when the school district is closed for health or safety reasons, on nontraditional days, or on nontraditional time. The district's plan shall demonstrate how teaching and learning in the district will not be negatively impacted. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a

school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

- (11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
 - 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
 - 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
 - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
 - 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 - 2. The employee's contract requires a minimum six (6) hour work day; and
 - 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
 - (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

Signed by Governor March 21, 2017.

CHAPTER 69

(SB 73)

AN ACT relating to autocycles.

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

➔Section 1. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled.

"Motor vehicle" shall not include a moped as defined in this section, but shall include low-speed vehicles as defined in this section.

- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
 - (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
 - (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
 - (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
 - (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter

the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;

- (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. **For purposes of registration**, "motorcycle" shall include an alternative-speed motorcycle **and an autocycle** as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor~~[-, combustion-driven motor, or a combination thereof];~~
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry;~~[-and]~~
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer; **and**
 - (e) **Is not an autocycle as defined in this section.**
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.
- (19) **"Autocycle" means any motor vehicle that:**
- (a) **Is equipped with a seat that does not require the operator to straddle or sit astride it;**
 - (b) **Is designed to travel on three (3) wheels in contact with the ground;**
 - (c) **Is designed to operate at a speed that exceeds forty (40) miles per hour as certified by the manufacturer;**
 - (d) **Allows the operator and passenger to ride either side-by-side or in tandem in a seating area that may be enclosed with a removable or fixed top;**
 - (e) **Is equipped with a three (3) point safety belt system;**
 - (f) **May be equipped with manufacturer-installed air bags or a roll cage;**
 - (g) **Is designed to be controlled with a steering wheel and pedals; and**
 - (h) **Is not an alternative-speed motorcycle as defined in this section.**

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "autocycle" has the same meaning as in Section 1 of this Act.*
- (2) (a) *A person may operate an autocycle on a highway if the operator has a valid operator's license in his or her possession.*

- (b) *An operator of an autocycle shall not be required to obtain a motorcycle license or endorsement.*
- (3) *An autocycle operating on a highway shall be insured in compliance with KRS 304.39-110 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.*
- (4) *An autocycle operating on a highway is considered to be a motorcycle as defined in Section 1 of this Act and shall be titled in accordance with KRS Chapter 186A and registered as a motorcycle in accordance with KRS 186.050(2).*
- (5) *A person operating an autocycle on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.*
- (6) *An operator of an autocycle shall be exempt from the protective headgear requirements of KRS 189.285.*

➔Section 3. KRS 186.480 is amended to read as follows:

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

➔Section 4. KRS 190.010 is amended to read as follows:

As used in this chapter:

- (1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:
 - (a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers;
 - (b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further

include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers;

- (c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers;
 - (d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes; and
 - (e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler;
- (2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto;
- (3) The term "motor vehicle dealer" shall not include:
- (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;
 - (b) Public officers while performing their official duties; or
 - (c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees;
- (4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles;
- (5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles;
- (6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles *or autocycles as defined in Section 1 of this Act*, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties;
- (7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers;
- (8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation;
- (9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles, including alternative-speed motorcycles as defined in KRS 186.010 *and autocycles as defined in Section 1 of this Act*. Motorcycles shall not include mopeds as defined in this section;
- (10) "Motor vehicle salesperson" means any person who is employed as a salesperson by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction;
- (11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction;
- (12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways that is self-propelled including low-speed motor vehicles as defined in KRS 186.010, but shall not include any

recreational vehicle or farm tractors and other machines and tools used in the production, harvesting, and care of farm products;

- (13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer;
- (14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (15) "Commission" means the Motor Vehicle Commission;
- (16) "Commissioner" means the commissioner of the department;
- (17) "Department" means the Department of Vehicle Regulation;
- (18) "Licensor" means the commission;
- (19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances;
- (20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity;
- (21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product;
- (22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b);
- (23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer;
- (24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact;
- (25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise;
- (26) "Automotive mobility dealer" means any motor vehicle dealer who:
 - (a) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;
 - (b) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf of another, as his or her primary business or incidental thereto; or
 - (c) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by an aging or disabled person;

- (27) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by an aging or disabled person;
- (28) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person;
- (29) "Nonprofit motor vehicle dealer" means a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code that purchases motor vehicles that it may offer for purchase to clients and other individuals who meet the definition of client as defined in this section and who are referred to the organization by public or private social service agencies;
- (30) "Client" means a person who has an open case file with a nonprofit organization or governmental agency and who meets the standards for disability or disadvantaging condition as established in administrative regulations promulgated by the commission pursuant to KRS 190.032(4);
- (31) "Recreational vehicle" means a vehicle that:
 - (a) Is primarily designed as temporary living quarters for noncommercial recreation or camping use;
 - (b) Has its own motive power or is towed by another vehicle;
 - (c) Is regulated by the National Highway Traffic Safety Administration as a vehicle; and
 - (d) Does not require a special highway use permit; and
- (32) "New recreational vehicle dealer" means a new recreational vehicle dealer as defined in KRS 190A.010.

➔Section 5. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.
- (6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of

providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.

- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.
- (8) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (9) The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.
- (10) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.
- (11) *For reporting and statistical purposes, an autocycle as defined in Section 1 of this Act shall be listed as its own distinct category and shall not be considered to be a motor vehicle or a motorcycle for reports issued under this section.*

Signed by Governor March 21, 2017.

CHAPTER 70

(HB 366)

AN ACT relating to the Boxing and Wrestling Commission.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *Every licensee shall be subject to the administrative regulations promulgated by the commission.*
- (2) *No person shall participate in an unarmed combat show in any capacity without holding a license issued by the commission.*
- (3) *The commission shall establish through the promulgation of administrative regulations:*
 - (a) *All license types, the eligibility requirements for each license type, and the expiration date of each license type;*
 - (b) *The annual license fee, which shall be no greater than:*
 - 1. *Five hundred dollars (\$500) for promoter licenses; and*
 - 2. *Fifty dollars (\$50) for all other licenses; and*
 - (c) *The method for submitting all applications for licensure.*
- (4) *No contestant under eighteen (18) years of age shall be knowingly issued a license or allowed to participate in any unarmed combat shows, nor shall any person obtain, or cause to be obtained, a license for any person under eighteen (18) years of age to participate in any unarmed combat show, except through a sanctioning body authorized by Section 3 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall conduct or advertise a show without a promoter license issued by the commission to conduct the show. Show dates shall be approved as determined through the promulgation of an administrative regulation.*
- (2) *Any person applying for a promoter license shall file with the commission a bond in the sum of ten thousand dollars (\$10,000), to be approved as to form and the sufficiency of the sureties by the commission, conditioned for the payment of:*
 - (a) *Taxes;*
 - (b) *Fines;*
 - (c) *Fees imposed by the commission;*
 - (d) *Purses and money owed to contestants; and*
 - (e) *Money owed to judges, physicians, referees, timekeepers, or other contracted event service providers.*
- (3) *If the promoter's bond expires or is cancelled, the commission shall immediately terminate that promoter's license.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *USA Boxing is the only sanctioning body recognized to conduct combat sports not covered under this chapter.*
- (2) *All other sanctioning bodies shall be nonprofit and submit a request to the commission to be recognized as a sanctioning body according to the requirements the commission establishes through the promulgation of an administrative regulation.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *A boxing, kickboxing, or muay thai contest or exhibition shall not consist of more than twelve (12) rounds. The duration of the rounds shall be determined by the commission through the promulgation of an administrative regulation.*
- (2) *Prior to any boxing show, the promoter shall file with the commission a copy of each contract involving compensation of the contestants and a copy of each contract under which he or she will receive, directly or indirectly, compensation from any source. Any person making payments under any of these contracts shall promptly report to the commission the amount of these payments.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall provide training or instruction for any wrestling show without holding a promoter license granted by the commission.*
- (2) *No person shall train as a wrestler without being licensed by the commission.*

➔Section 6. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

- (1) "Advertise" ~~means~~~~[includes]~~ the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television, Internet, and other communication media;
- (2) ~~["Authority" means the Kentucky Boxing and Wrestling Authority;~~
- ~~(3)~~ "Boxing" means a contest or exhibition in which a person delivers blows with the fist ~~that~~~~[which]~~ may be reasonably expected to disable or inflict injury and in which boxers compete for money, a prize, or other pecuniary gain, *or for which admission is charged to spectators;*
- (3) "Commission" means the Kentucky Boxing and Wrestling Commission;
- (4) "Exhibition" ~~["Exhibition,"]~~ means an event or engagement:
 - (a) In which the participants show or display their skills without necessarily striving to win; or
 - (b) *That involves*~~[involve]~~ amateurs not under the jurisdiction of the Kentucky High School Athletic Association, the National Collegiate Athletic Association, *the National Association of Intercollegiate*

Athletics, the Amateur Athletic Union, Golden Gloves, USA Boxing, USA Wrestling, or a public show to which an admission ticket is required, or other charge is made, or invitation;

- (5) "Kickboxing" means a boxing contest or exhibition where the participants are allowed to throw kicks or foot blows at the opponent in addition to punching with the hands and in which kickboxers compete for money, a prize, or other pecuniary gain, *or for which admission is charged to spectators*;
- (6) "Mixed martial arts" means any form of unarmed contest or exhibition in which participants compete for money, a prize, or other pecuniary gain, or for which admission *is charged to spectators*~~for donations are collected from the audience~~. Mixed martial arts may include any element or combination of elements of boxing, kickboxing, wrestling, or other martial arts. Exhibitions where participants are judged on form and style and where punches and kicks are pulled shall not be included in this definition;
- (7) *"Muay thai" means a boxing contest or exhibition where the participants are allowed combined use of clinches, elbows, knees, and shins in addition to punching with the hands and in which participants compete for money, a prize, or other pecuniary gain, or for which admission is charged to spectators;*
- (8) "Person" ~~means~~*includes* an individual, partnership, corporation, association, or club;
- ~~(8) "Professional" is a boxer, kickboxer, mixed martial arts contestant, or wrestler who competes for a money prize, or other pecuniary gain;~~
- (9) "Show" means any ~~organized grouping of~~ boxing, kickboxing, mixed martial arts, *muay thai*, or wrestling ~~match, contest, or exhibition~~*matches, contests, or exhibitions* coming under the jurisdiction of the Kentucky Boxing and Wrestling ~~Commission~~*Authority*~~; and~~
- (10) *"Unarmed combat" means boxing, kickboxing, sparring, wrestling, mixed martial arts, or muay thai under the jurisdiction of the commission; and*
- (11) *"Wrestling"*~~["Professional wrestling"]~~ means an activity or performance of athletic and wrestling skill between individuals who are not under the jurisdiction of the Kentucky High School Athletic Association, the National Collegiate Athletic Association, *the National Association of Intercollegiate Athletics*, or USA Wrestling~~;~~ in which the participants struggle hand-to-hand primarily for the purpose of providing entertainment to spectators rather than conducting a bona fide athletic contest. The outcome of these matches may be predetermined. Participating wrestlers may not be required to use their best efforts in order to win.

➔Section 7. KRS 229.031 is amended to read as follows:

- (1) Every person conducting *an unarmed combat show*~~a boxing, kickboxing, mixed martial arts, or wrestling show or exhibition~~, other than those holding a permit under subsection (1) of KRS 229.061, shall~~, within twenty four (24) hours after the termination of every show or exhibition,~~ furnish to the *commission*~~authority~~ a written report, verified by the person, if an individual, or by some officer, if a corporation or association, showing the number of tickets sold for the show ~~or exhibition~~, the amount of the gross receipts from *this*~~such~~ sale, and *any*~~such~~ other matters *prescribed by*~~as~~ the *commission*~~authority prescribes~~. He or she shall also~~, within the same period,~~ pay to the *commission*~~authority~~ a tax of twenty-five dollars (\$25) or five percent (5%) of the gross receipts from the sale of all tickets to the show ~~or exhibition~~, whichever is greater.
- (2) *Any person supplying radio, television, or cable facilities for the broadcast or televising of any show shall, prior to the show, notify the commission*~~He or she shall also, prior to any such show or exhibition, file with the authority a copy of each contract involving compensation of the contestants and a copy of each contract under which he or she will receive, directly or indirectly, compensation from any source whatsoever. Any person making payments under any such contract shall promptly report to the authority the amount of any such payments~~.
- (3) All taxes required to be paid by this section shall be computed on the gross receipts without any deduction ~~whatsoever~~ for commissions, brokerage, distribution fees, advertising, or other *related* expenses, charges, or recoupments ~~in respect thereto~~, *except that*~~exclusive of any~~ federal excise taxes *may be deducted*.
- (4) *Whenever a person fails to make the report within the time prescribed by the commission, or whenever the report is incomplete or patently inaccurate, the commission may examine or cause to be examined the books and records of that person to ascertain the total amount of its gross receipts for any show to determine the amount of tax due*~~Any person supplying radio, television, or cable facilities for the broadcast or televising of any show shall, prior to the contest, notify the authority~~.

➔Section 8. KRS 229.061 is amended to read as follows:

- (1) The *commission*~~[authority]~~ may issue a permit, without the payment of any taxes or license fee, to any accredited college, university, school, Young Men's Christian Association, Young Men's Hebrew Association, or organization ~~that~~~~[which]~~ in the judgment of the *commission*~~[authority]~~ is of like character, to hold *an unarmed combat show*~~[boxing or kickboxing shows or exhibitions]~~ upon a sufficient showing that the matches or exhibitions are to be held by and between bona fide students or members of ~~the~~~~[such]~~ accredited colleges, universities, schools, Young Men's Christian Associations, Young Men's Hebrew Associations, or organizations ~~that~~~~[which]~~ in the judgment of the *commission*~~[authority]~~ are of like character.
- (2) Any regularly organized post of the American Legion, and any organization operating solely for charitable purposes from which no individual, partnership, or corporation derives any monetary gain, may hold *an unarmed combat show*~~[boxing or kickboxing shows or exhibitions]~~ without the payment of the license fee prescribed by *Section 1 of this Act*~~[KRS 229.071]~~. Any post of the American Legion or other organization holding shows~~[or exhibitions]~~ under this section shall be subject to~~[the provisions of]~~ KRS 229.031~~[and 229.054]~~.
- (3) No show *authorized*~~[permitted]~~ by *subsection*~~[subsections]~~ (1) ~~or~~~~[and]~~ (2) of this section may be conducted without a permit to hold the specific match and accompanying program of events at a specified location on a specified date.

➔Section 9. KRS 229.111 is amended to read as follows:

Contestants in a boxing, kickboxing, *muay thai*, or mixed martial arts show~~[or exhibition]~~ shall be examined by a reputable licensed physician appointed by the *commission*~~[authority]~~, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the *commission*~~[authority]~~ before participating in a boxing, kickboxing, *muay thai*, or mixed martial arts show~~[bout or exhibition]~~.

➔Section 10. KRS 229.131 is amended to read as follows:

Decisions may be rendered in any *unarmed combat*~~[boxing, kickboxing, mixed martial arts, or wrestling]~~ show~~[or exhibition]~~, permitted by this chapter~~[,]~~ in the discretion of the *commission*~~[authority]~~ and by *any*~~[such]~~ method~~[as]~~ it~~[by rule]~~ prescribes *through the promulgation of administrative regulations*.

➔Section 11. KRS 229.141 is amended to read as follows:

All structures or parts of structures used, or intended to be used, for *an unarmed combat show*~~[boxing, kickboxing, mixed martial arts, and wrestling shows and exhibitions]~~ shall *conform to any building codes, safety codes, and local laws that apply to the structure or the location and use of the structure*~~[be properly ventilated and provided with fire exits and fire escapes, if need be, and shall conform to the laws, ordinances and regulations pertaining to buildings in the city where situated]~~.

➔Section 12. KRS 229.151 is amended to read as follows:

- (1) The Kentucky Boxing and Wrestling *Commission*~~[Authority]~~ is hereby created and established as an agency of state government charged with the responsibility for regulatory oversight and the establishment of sound policies and procedures governing the conduct of *unarmed combat*~~[boxing, wrestling, and other full contact competitive bouts]~~ within the Commonwealth of Kentucky. The *commission*~~[authority]~~ shall be *organized within*~~[attached to]~~ the Public Protection Cabinet~~[for administrative purposes]~~.
- (2) The *commission*~~[authority]~~ shall consist of *the following* five (5) members ~~:[appointed by the Governor]~~.
 - ~~(a) — One (1) member shall be —~~
 - (a) The secretary of the Public Protection Cabinet, or the secretary's designee, who shall serve as an ex officio, voting member; *and*
 - (b) *Four (4) members who shall be appointed by the Governor as follows*~~:[:]~~
 - ~~1. [(b)] One (1) member shall be a physician licensed to practice medicine in Kentucky;~~
 2. *One (1) member shall be an attorney licensed to practice law in Kentucky;*
 3. *One (1) member shall have experience in sports marketing or promotion; and*
 4. *At least one (1) member*~~[medical doctor; and]~~
 - ~~(c) — Three (3) members shall be appointed from the state at large, One (1) of whom]~~ shall have no financial interest in the business or industry regulated.

- (3) ***The Governor shall designate*** one (1) member~~[shall be appointed]~~ to serve as the ***commission's***~~[authority's]~~ chairperson. The Governor shall further designate a second member to serve as vice ***chairperson***~~[chair]~~ with authority to act in the absence of the ***chairperson or if the office of the chairperson is vacant***~~[chair]~~.
- (4) A majority of the members of the ***commission***~~[authority]~~ shall constitute a quorum for the transaction of business.
- (5)~~(3)~~ The appointed members of the ***commission***~~[authority]~~ shall serve for a term of three (3) years~~[at the pleasure of the Governor, with initial terms staggered]~~. Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
- (6)~~(4)~~ Members of the ***commission***~~[authority]~~ shall receive one hundred dollars (\$100) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business.

➔Section 13. KRS 229.155 is amended to read as follows:

- (1) To carry out the functions relating to the ***commission's***~~[authority's]~~ duties and responsibilities and to afford the full experience and resources of the Public Protection Cabinet, ***the secretary of the Public Protection Cabinet may appoint an executive director pursuant to KRS 12.050***~~[after revenue of five hundred thousand dollars (\$500,000) is generated in two (2) consecutive fiscal years by the authority, the Governor may appoint an executive director who shall serve at the pleasure of the Governor. The Governor shall set the qualifications and salary for the position of executive director under the provisions of KRS 64.640]. The secretary of the Public Protection Cabinet or the secretary's designee shall act as executive director in the absence of the executive director~~[until the fiscal requirement is met].
- (2) The executive director shall employ sufficient regulatory staff for the ***commission***~~[authority]~~ that shall be responsible for the day-to-day operations of the ***commission***~~[authority]~~, including but not limited to the following:
- (a) Complying with ***administrative*** regulations;
 - (b) Issuing licenses and permits;
 - (c) Establishing appropriate organizational structures;
 - (d) Carrying out policy and program directives of the ***commission***~~[authority]~~; and
 - (e) Performing all other duties and responsibilities as assigned.
- (3) With approval of the ***commission***~~[authority]~~, the executive director and regulatory staff may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the ***commission***~~[authority]~~.

➔Section 14. KRS 229.171 is amended to read as follows:

- (1) The ***commission***~~[authority shall have and hereby]~~ is vested with the sole direction, management, control, and jurisdiction over all ***unarmed combat***~~[boxing, sparring, kickboxing, mixed martial arts, and wrestling] shows[or exhibitions]~~ to be conducted, held, or given within the Commonwealth. The ***commission***~~[authority]~~ is hereby given the sole control, authority, and jurisdiction over all licenses to:
- (a) Hold ***unarmed combat***~~[boxing, sparring, kickboxing, mixed martial arts, or wrestling] shows[or exhibitions]~~ for prizes or purses or where an admission fee or donation is received, or a ticket or invitation is required to attend; and
 - (b) ~~over all licenses to any and all persons who~~ Participate in the ***unarmed combat***~~[boxing, sparring, kickboxing, mixed martial arts, or wrestling] shows[or exhibitions]~~.
- (2) ***The commission may promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the commission wider discretion than that ordinarily possessed by administrative agencies.***
- (3) ~~[Except as otherwise provided in this chapter,]~~The ***commission***~~[authority]~~ shall be responsible for the following:
- (a) Developing programs and procedures ***that***~~[which]~~ will aggressively fulfill its oversight and regulatory role, with full accountability and internal controls to protect athletes in the ring;

- (b) Adhering to the best regulatory practices and due process procedures to protect the regulated community and the interests of the Commonwealth, and ensuring that all education and training requirements for hearing officers and members serving as hearing officers under KRS Chapter 13B are met;
- (c) Developing the Commonwealth's goals of providing the professional staff necessary to ensure that events are effectively regulated, while allowing **commission**~~[authority]~~ members to provide the policy oversight necessary to protect the integrity of the regulatory program; and
- (d) Recommending changes to statutory and regulatory authorities to best protect athletes, while Promoting Kentucky as a world-class market for major events.

➔Section 15. KRS 229.190 is amended to read as follows:

- (1) Any action of the **commission, including any action of a commission employee**,~~[authority]~~ taken under KRS 229.200 may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The **commission**~~[authority]~~ may provide for hearing officers or impanel not less than three (3) of its members to conduct hearings.
- (2) Any party aggrieved by a final order of the **commission**~~[authority]~~ may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

➔SECTION 16. KRS 229.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The commission may suspend, reprimand, revoke, probate, or refuse to renew or issue a license if it has reason to believe the licensee or applicant has:*
 - (a) *Violated any provision of this chapter;*
 - (b) *Violated any administrative regulation promulgated by the commission pursuant to this chapter;*
 - (c) *Been found guilty of, entered a plea of guilty or no contest to, or entered an Alford plea to a crime, other than a traffic violation, that is detrimental to the interests of unarmed combat or to the public interest, convenience, or necessity in any jurisdiction;*
 - (d) *Been found liable in a civil action for any claim that involves fraud or dishonesty in any jurisdiction if the person is a licensed promoter, manager, referee, or judge;*
 - (e) *Violated a law related to boxing, kickboxing, sparring, mixed martial arts, muay thai, or wrestling in any jurisdiction;*
 - (f) *Placed a bet or wager on any bout or match in which the person participates or works;*
 - (g) *Served as, or consorted or associated with any person who is, a bookmaker or illegal gambler;*
 - (h) *Participated in an unlicensed event;*
 - (i) *Declared bankruptcy if the person is a licensed promoter, manager, referee, or judge; or*
 - (j) *An injury or health condition that makes it unsafe for the person to participate.*
- (2) *If the commission has reason to believe that a person has committed a violation of this chapter or administrative regulations promulgated thereunder, the commission may impose one (1) or more of the following penalties:*
 - (a) *Issue a cease and desist order;*
 - (b) *Declare a contestant ineligible to compete or disqualify the contestant;*
 - (c) *Eject the person from the premises at which the show or exhibition is taking place;*
 - (d) *Issue a fine not to exceed five thousand dollars (\$5,000);*
 - (e) *Suspend, reprimand, revoke, probate, or refuse to renew or issue a license; or*
 - (f) *Refer the person for criminal prosecution.*
- (3) *The commission may delegate to its employees the ability to take any of the actions authorized by subsection (2) of this section, subject to the appellate rights granted in Section 15 of this Act.*

- (4) *For any act that would justify the suspension of a license, other than a medical suspension, the commission may declare the person who committed the act ineligible to receive a license for a period not to exceed one (1) year.*

➔Section 17. KRS 229.240 is amended to read as follows:

All peace officers, who are informed or who have reason to believe that a show~~[or exhibition that is]~~ in violation of this chapter or administrative regulations promulgated in accordance with this chapter is **taking place or will be taking**~~[about to take place, or that there is training or preparation for such a show or exhibition, in any]~~ place within their jurisdiction, shall suppress and prevent it. For this purpose any peace officer may enter any place where ~~a~~~~[such]~~ show~~[or exhibition]~~ is being or will be held or where there is training or preparation for **a wrestling**~~[such a]~~ show~~[or exhibition]~~ and may arrest without a warrant any person who does not submit satisfactory proof that he or she has the license or permit required by this chapter.

➔Section 18. KRS 229.250 is amended to read as follows:

- (1) The~~[first two hundred fifty thousand dollars (\$250,000) in]~~ fees and charges collected by the Kentucky Boxing and Wrestling **Commission**~~[Authority]~~ shall be paid into the State Treasury and credited to a separate revolving or trust and agency fund account established for the purpose of administrat~~ing the provisions of~~ this chapter.~~[The amount of fees and charges collected in excess of two hundred fifty thousand dollars (\$250,000) shall be deposited to the credit of the general fund.]~~ The cost and expenses of administrat~~ing the provisions of~~ this chapter, including compensation to members of the **commission**,~~[authority and]~~ its officers, and employees shall be paid out of the State Treasury upon warrants of the secretary of the Finance and Administration Cabinet according to law.~~[, provided that]~~ The total expense of administering **this chapter**~~[these provisions]~~ shall not exceed the fees and other charges collected by the **commission**~~[authority]~~ and available in the revolving or trust and agency fund account~~[, of that authority, except that, in fiscal year 1984-85 such costs shall not exceed the fees and other charges collected by the authority and available in the revolving or trust and agency account plus any funds which are appropriated to the authority under the provisions of Acts Chapter 418 of the 1984 session of the Kentucky General Assembly].~~
- (2) All fees and charges collected by the Kentucky Boxing and Wrestling **Commission**~~[Authority, up to a maximum of two hundred fifty thousand dollars (\$250,000),]~~ shall be available for the administration of ~~[the provisions of]~~ this chapter, and for no other purpose.

➔Section 19. KRS 229.260 is amended to read as follows:

- (1) The Kentucky Boxing and Wrestling **Commission** Medical Advisory Panel is hereby created **and established as an agency of state government.**
- (2)
 - (a) The panel shall consist of three (3) to five (5) physicians appointed by the **secretary of the Public Protection Cabinet**~~[chair of the Kentucky Boxing and Wrestling Authority with the consent of the full authority].~~
 - (b) *At least one (1) of the panel members shall be a neurologist.*
 - (c) *In addition to the physicians appointed to the panel under this subsection, the licensed physician appointed to the commission by the Governor under Section 12 of this Act shall be an ex officio voting member of the panel and shall serve as the panel's chairperson.*
- (3) Each physician shall be:
 - (a) Licensed to practice medicine in Kentucky; and
 - (b) Knowledgeable regarding **one (1) or more medical fields related to** the kinds and types of injuries or conditions likely to be the result of **unarmed combat**~~[boxing, kickboxing, mixed martial arts, and wrestling].~~
- ~~(4)(3)~~ Each member of the panel shall receive one hundred dollars (\$100) per day for each meeting of the panel and for each day~~[or portion thereof]~~ that the member is engaged in carrying out the duties of the panel.
- ~~(5)(4)~~ The panel shall advise the Kentucky Boxing and Wrestling **Commission**~~[Authority]~~ regarding:
 - (a) Health and safety issues and policy relating to the sports regulated by the **commission**~~[authority]~~~~;~~ ~~and]~~
 - (b) The fitness of an individual referred to the panel for review to compete in the regulated sports; **and**
 - (c) *The length of a medical suspension of an injured person.*

- (6) *Meetings of the Kentucky Boxing and Wrestling Medical Advisory Panel held for the purpose of discussing an individual's fitness to obtain a license or to compete shall be exempt from the Kentucky Open Meetings Law established in KRS Chapter 61.*
- (7) *Meetings of the Kentucky Boxing and Wrestling Medical Advisory Panel for the purpose of discussing individual fitness to obtain a license or to compete may be held in the form of written, video, telephonic, or electronic communications between members. The members shall not be compensated for these meetings.*

➔Section 20. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.

- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.

- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
 - 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.

- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling ~~Commission~~^{Authority}.
 - (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.

5. Division of Insurance Fraud Investigation.
6. Consumer Protection Division.
7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.

1. Office of Project Development.
2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.

- (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:

- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.
 - 9. Division of Sales.

10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
 - (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
 - (g) Office of Legal Affairs.
 - (h) Office of Human Resources.
 - (i) Office of Public Affairs and Constituent Services.
 - (j) Office of Creative Services.
 - (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
 - (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.

- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 21. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (3) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
 - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- (4) The following agencies are attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330:
 - (a) Crime Victims Compensation Board;
 - (b) Board of Claims;
 - (c) Kentucky Board of Tax Appeals; **and**
 - ~~(d) Kentucky Boxing and Wrestling Authority; and~~
 - ~~(e)}~~ Kentucky Horse Racing Commission.
- (5) ***There is established within the Public Protection Cabinet the Kentucky Boxing and Wrestling Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.***

➔Section 22. KRS 148.590 is amended to read as follows:

- (1) There is created the Kentucky Sports Authority, which shall be attached to the Tourism, Arts and Heritage Cabinet, Office of the Secretary, for administrative purposes.

- (2) The authority shall consist of fifteen (15) members, including the Lieutenant Governor, the secretary of the Tourism, Arts and Heritage Cabinet, the secretary of the Public Protection Cabinet, and twelve (12) members appointed by the Governor. The members appointed by the Governor shall include representatives of the Kentucky Horse Racing Commission, the fish and wildlife community, and the Kentucky Boxing and Wrestling ~~Commission~~^{Authority}.
- (3) The Lieutenant Governor shall serve as chairperson of the authority. Members shall elect other officers as they deem necessary. Of the members initially appointed by the Governor, one-third (1/3) shall serve a term of four (4) years, one-third (1/3) shall serve a term of three (3) years, and one-third (1/3) shall serve a term of two (2) years. All succeeding terms shall be for four (4) years.
- (4) The secretary of the Tourism, Arts and Heritage Cabinet shall appoint an executive director, with the prior written approval of the Governor, to head the authority. The cabinet shall provide additional administrative support to the authority from the cabinet's existing staff as necessary.
- (5) The authority shall meet no less than biannually and at other times as necessary, upon the call of the chairperson. Members shall be reimbursed for expenses incurred in performing the authority's duties, functions, and responsibilities.
- (6) The authority's primary responsibility shall be to recruit, promote, assist, place, and develop sporting events, facilities, attractions, and programs in the Commonwealth, with the ultimate goal of developing commerce, the economy, job opportunities, and revenue streams. The authority's duties shall include but not be limited to the following:
 - (a) Lead efforts to attract national and regional sporting events to Kentucky by working with national, regional, and local sporting organizations;
 - (b) Work with communities to recruit professional franchises and develop an overall strategic plan to recruit and retain all forms of professional and amateur sporting events to Kentucky;
 - (c) Collaborate with communities to identify and propose improvements for sporting activity infrastructure, including opportunities for private and public partnership on infrastructure development; present for the Governor's approval any financial plan that would require state tax dollars to build new athletic facilities; and upon the Governor's approval of a proposed financial plan, present it to the General Assembly;
 - (d) Foster relationships between sporting event organizers and event sponsors, and between and among state agencies, and provide advice and direction for increasing the number and quality of sporting events;
 - (e) Evaluate various sports and sports-related activities and entities and make written recommendations to the Governor and the General Assembly if additional regulation, licensing, or taxing are necessary;
 - (f) Collaborate with communities and Kentucky athletes to develop programs to promote youth wellness and awareness of the benefits of a healthy lifestyle; and
 - (g) Develop and recommend to the Governor, as necessary, legislation and administrative regulations to further the purposes of the authority, including but not limited to the recruitment and maintenance of professional and amateur sporting events, the facilitation of sporting participation by Kentucky's citizens, the safe and ethical operation of sporting events, and the fiscal impact of sporting events in the Commonwealth.

➔Section 23. The following KRS sections are repealed:

- 229.021 License required for shows and exhibitions.
- 229.041 Books examined, when.
- 229.051 Bond licensee -- Condition.
- 229.071 License requirement for shows and exhibitions -- Fees -- License preference to Kentucky residents.
- 229.081 License and eligibility requirements for participants in show.
- 229.091 Licensees subject to regulation -- Written application.
- 229.101 Length of bouts, exhibitions, and rounds.
- 229.121 Age limit for contestants.

229.180 Authority's rules and administrative regulations.

229.210 Medical suspension -- Other ineligibility duration.

229.991 Penalties.

➔Section 24. Of the initial commission appointments made by the Governor under subsection (2)(b) of Section 12 of this Act, one member shall serve a term of one year, one member shall serve a term of two years, and two members shall each serve a term of three years.

➔Section 25. The General Assembly confirms Executive Order 2016-270, dated May 16, 2016, which establishes the Boxing and Wrestling Commission and the Boxing and Wrestling Commission Medical Advisory Panel, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 71

(HB 368)

AN ACT relating to tax credits.

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

➔Section 1. KRS 144.132 is amended to read as follows:

(1) *As used in this section:*

(a) *"Certificated air carrier" means an air carrier that is listed on the United States Department of Transportation certificated air carrier list or a foreign indirect air carrier registered with the United States Department of Transportation;*

(b) *"Department" means the Department of Revenue; and*

(c) *"Person" has the same meaning as in KRS 139.010.*

(2) (a) ~~[Subject to the provisions of subsection (2) of this section,]~~ Any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, ~~[purchased after June 30, 2000,]~~ as determined ~~by this [under subsection (2) of this] section.~~

(b) ~~[(2)]~~ ~~[For fiscal years beginning after June 30, 2000,]~~ Certificated air carriers shall pay the first one million dollars (\$1,000,000) in Kentucky sales and use tax due ~~on [that is applicable to] the purchase of aircraft fuel, including jet fuel. The one million dollars (\$1,000,000) shall be increased to reflect the sales and use tax on aviation fuel attributable to operations of any other company when such company is purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The increase shall be based on the tax applicable to aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or in combination with the certificated air carrier. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year [beginning after June 30, 2000], in excess of one million dollars (\$1,000,000).~~

(3) *On and after the effective date of this Act, any person that:*

(a) *Contracts with one (1) or more certificated air carriers for the transportation by air of persons, property, or mail; and*

(b) *Is responsible for the purchase and payment of aircraft fuel, including jet fuel to transport the persons, property, or mail;*

shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, during the fiscal year in excess of one million dollars (1,000,000).

~~(4)(3)~~ Each certificated air carrier *that qualifies for the credit authorized in subsection (2) of this section and every person that qualifies for the credit authorized in subsection (3) of this section* purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars (\$1,000,000) shall report and pay directly to the department ~~of Revenue~~ the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

~~(5)(4)~~ Each certificated air carrier *that qualifies for the credit authorized in subsection (2) of this section and every person that qualifies for the credit authorized in subsection (3) of this section that claims* ~~claiming~~ the sales and use tax credit ~~authorized pursuant to this section~~ shall file an annual sales and use tax reconciliation report with the department ~~of Revenue~~ on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be *in a form and contain information and documentation as the department may reasonably require to verify the computation of the tax credit against the tax imposed under KRS 139.200 and 139.310* ~~filed as provided in KRS 144.137~~.

➔Section 2. The following KRS sections are repealed:

144.110 Definitions for KRS 144.110 to 144.130.

144.115 Legislative findings and declarations.

144.125 General tax credit -- Qualifications -- Amount -- Duration -- Use -- Reporting requirements.

144.130 Application for credits -- Date for meeting qualifications -- Pro rata forfeiture of credits -- Extensions -- Notice requirements for department.

144.135 General tax credit reconciliation report relative to corporation license tax.

144.137 Sales and use tax and general tax credit reconciliation reports relative to sales and use tax.

144.139 General tax credit reconciliation report relative to corporation income tax.

Signed by Governor March 21, 2017.

CHAPTER 72

(HB 384)

AN ACT relating to mine safety.

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

➔Section 1. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine safety specialists to ensure at least two (2) inspections annually at all surface mines, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional mine safety specialists to enable the commissioner to provide adequate *monitoring* ~~surveillance~~ of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners. ***Underground mines shall be inspected at least six (6) times annually; except that the commissioner shall have the discretion to require up to three (3) of the six (6) required mine safety inspections to be mine safety analysis visits pursuant to KRS 351.242. At least one (1) inspection shall be a full electrical inspection***; ~~except the commissioner shall inspect all underground coal mines not less than six (6) times annually. Two (2) of the six (6) general inspections of underground mines shall be full electrical inspections~~. One (1) or more of the appointees shall be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety specialists to perform safety analysis and safety instruction. The term of office of each mine safety specialist shall be during the period of capable, efficient service and good behavior.
- (2) All mine safety specialists shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience

in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.

- (3) No person shall be appointed to the office of mine safety specialist unless he or she holds a current mine foreman's certificate. A person appointed as mine safety specialist shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine safety specialist who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine safety specialists shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by mine safety specialists who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine safety specialist shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Each mine safety specialist shall provide authorization to the division to perform a criminal background check by means of a fingerprint check by the Department of Kentucky State Police. The results of the state criminal background check shall be sent to the director of the division. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

➔Section 2. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

- (1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;
- (2) Training officials and workmen in and about the mines in first aid and mine rescue methods;
- (3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;
- (4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;
- (5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;
- (6) Inspecting each underground *and surface*~~coal~~ mine in *accordance with subsection (1) of Section 1 of this Act*~~this district at least six (6) times a year and all other mines once every six (6) months. For underground coal mines, two (2) of the six (6) general inspections conducted annually shall be full electrical inspections. The commissioner may cause inspections more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;~~
- (7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and
- (8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Signed by Governor March 21, 2017.

CHAPTER 73

(HB 403)

AN ACT relating to the Kentucky Horse Park.

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

➔Section 1. KRS 148.260 is repealed, reenacted, and amended to read as follows:

- (1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission, which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the Tourism, Arts and Heritage Cabinet for administrative purposes.
- (2) The commission shall be composed of *the following fifteen (15)*~~seventeen (17))~~ members:
 - (a) *Thirteen (13) members appointed by the Governor* who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and ~~shall~~, to the extent possible, represent the diverse *interests*~~interest~~ of the Kentucky horse industry, *four (4) or more of whom*~~. Of these, fifteen (15) members shall be appointed by the Governor. Two (2) of these appointed members of the commission shall~~ represent the equine industry~~;~~ and *four (4) or more of whom are*~~two (2) members shall be~~ active in industry, *tourism, or*~~and~~ commerce. *The members of the commission appointed under this paragraph shall serve for a term of four (4) years, except that initial appointments shall be as follows:*
 1. *Four (4) members shall serve for a term of two (2) years;*
 2. *Five (5) members shall serve for a term of three (3) years; and*
 3. *Four (4) members shall serve for a term of four (4) years; and*
 - (b) The secretary of the Cabinet for Economic Development and the secretary of the Tourism, Arts and Heritage Cabinet, *who* shall serve as ex officio members with full voting rights.~~Any vacancy on the commission shall be filled by the Governor for the unexpired term.~~
- (3) *The Governor shall designate one (1) member of the commission to serve as chairperson and one (1) member of the commission to serve as vice chairperson, both of whom shall serve at the pleasure of the Governor. The vice chairperson shall preside over meetings in the absence of the chairperson.*~~The appointed members of the commission shall hold their offices for a term of four (4) years, except that for the initial appointment to the commission, two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and three (3) members shall serve a term of four (4) years.~~
- (4) The commission shall meet quarterly, and ~~shall be headed by a chairman appointed by the Governor. The~~ *chairperson*~~chairman~~ shall preside over the ~~commission~~ meetings. The *chairperson*~~chairman~~ may call special meetings of the commission upon a request of the majority of the members of the commission, *or upon request of the Governor.*
- (5) Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.
- (6) The commission shall establish and maintain an office at the Kentucky State Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.
- (7) The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of eight (8) members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

- (8) The Governor may establish an advisory committee to advise in the administration, development, and operation of the **Kentucky Horse Park**~~[horse park]~~ or other functions, activities, and programs provided for or authorized by KRS 148.260 to 148.320.

➔Section 2. KRS 148.290 is amended to read as follows:

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

➔Section 3. The General Assembly confirms Executive Order 2016-281, dated May 24, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 74

(HB 453)

AN ACT relating to the Kentucky Claims Commission.

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

➔SECTION 1. KRS CHAPTER 49 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Claims Commission is created and established within the Public Protection Cabinet. As used in this chapter, "commission" means the Kentucky Claims Commission.*
- (2) *The commission shall consist of three (3) members appointed by the Governor with the consent of the Senate. At least one (1) member shall be an attorney licensed to practice in the Commonwealth, at least one (1) member shall have a taxation background, and at least one (1) member shall be:*
 - (a) *A victim as defined in KRS 421.500(1);*
 - (b) *The parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1), whether or not the victim is deceased; or*
 - (c) *A victim advocate as defined in KRS 421.570(1).*
- (3) *Except for the appointment of the commission's first members, all appointments shall be for a three (3) year term. Vacancies for unexpired terms shall be filled in the same manner as regular appointments, but an appointee for a vacancy shall hold office only to the end of the unexpired term of that vacated member.*

- (4) *The Governor shall designate one (1) member of the commission to serve as chairperson, and the commission shall annually elect one (1) of its members to serve as vice chairperson with the authority to act in the absence of the chairperson.*
- (5) *The Governor shall set a salary for members of the commission. In addition, members shall be reimbursed for all expenses paid or incurred in the discharge of official business at existing state rates.*
- (6) *The commission shall meet as often as necessary to perform its statutory responsibilities as outlined in this chapter. A majority of the members of the commission shall constitute a quorum for the transaction of business.*
- (7) *The chairperson shall conduct an annual training session for all members of the commission on new legislation, relevant court decisions, and commission policies and procedures.*
- (8) *The commission shall be headed by an executive director appointed by the commission. The executive director shall:*
 - (a) *Carry out the policy and program directives of the commission;*
 - (b) *Be responsible for the day-to-day operations of the commission;*
 - (c) *Establish appropriate organizational structures and personnel policies;*
 - (d) *Serve as the appointing authority for all personnel;*
 - (e) *Prepare annual reports on the commission's activities;*
 - (f) *Prepare budgets; and*
 - (g) *Perform all other duties as directed by the commission or assigned by law.*
- (9) *The Governor shall appoint the necessary number of hearing officers to serve at the direction of the commission. A commission member or employee may serve as a hearing officer for the commission. Any commission member or employee who serves as a hearing officer shall not receive additional compensation but shall be reimbursed at state rates for expenses paid or incurred as a result of serving as a hearing officer. A commission member or employee who is an attorney licensed to practice in the Commonwealth shall be exempt from KRS 13B.030(4).*
- (10) *With the approval of the commission, the executive director and commission employees may enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to enlist assistance to implement the duties and responsibilities of the commission.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

The Kentucky Claims Commission created by Section 1 of this Act shall have the following powers and authority:

- (1) *To investigate, hear proof, and compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; except, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for such claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or the right to receive payment from workers' compensation insurance, Social Security programs, unemployment insurance programs, medical, disability, or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during, or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the commission;*
- (2) *To hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation;*

- (3) *To hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation;*
- (4) *To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;*
- (5) *To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the commission's statutory authority;*
- (6) *To issue subpoenas and discovery orders and to petition a court of competent jurisdiction for any order necessary to carry out the commission's powers and duties;*
- (7) *To take or cause to be taken affidavits or depositions within or without the state;*
- (8) *To administer or cause to be administered oaths;*
- (9) *Except for the power to issue final decisions on the merits of a claim or appeal, to delegate any of its power or authority to commission employees; and*
- (10) *To publicize widely the functions and purposes of the commission.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

Sections 4 to 18 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (1) of Section 2 of this Act.

➔Section 4. KRS 44.070 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) ~~[A Board of Claims, composed of the members of the Crime Victims Compensation Board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; provided, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for said claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or right to receive payment from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the Board of Claims. Except as herein provided, the board shall be independent of all agencies, cabinets, and departments of the Commonwealth except as provided in KRS 44.070 to 44.160.~~
- (2) ~~The board shall be composed of the members of the Crime Victims Compensation Board. The members shall not be entitled to additional compensation for their services on the Board of Claims.~~
- (3) ~~The Governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the Governor. No member shall, at the same time, serve as chairman of the Crime Victims Compensation Board and as chairman of the Board of Claims.~~
- (4) ~~The employees of the Crime Victims Compensation Board, without additional compensation, shall be ex officio employees of the Board of Claims.~~
- (5) ~~]Regardless of any provision of law to the contrary, the jurisdiction of the *commission*~~[board]~~ is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed two hundred *fifty* thousand dollars ~~(\$250,000)~~~~(\$200,000)~~, exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the total award may not exceed *four*~~[three]~~ hundred~~[fifty]~~ thousand dollars ~~(\$400,000)~~~~(\$350,000)~~, to be equitably divided among the claimants, but in no case may any claimant individually receive more than two hundred *fifty* thousand dollars ~~(\$250,000)~~~~(\$200,000)~~.~~

(2)(6) **Hearing** ~~The Governor shall appoint the necessary number of hearing officers, each of whom shall be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years. These~~ officers, upon the direction of the **chairperson**~~chairman~~, ~~for~~ the **commission**~~board~~, **or the commission's executive director**, shall conduct hearings~~;~~ and otherwise supervise the presentation of evidence and perform any other duties assigned to them by the **chairperson**~~chairman~~, ~~for~~ the **commission**~~board~~, **or the commission's executive director**, except that such hearing officers shall not render final decisions, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the **commission**~~board~~, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(3)(7) ~~The board may at any time recommend the removal of any hearing officer upon filing with the Governor a full written statement of its reasons for such removal.~~

(8) ~~Upon recommendation to the **commission**~~board~~ by the attorney for the Commonwealth, its cabinet, department, bureau, agency, or employee thereof, that a settlement has been reached between the parties to the claim, and upon approval by the **commission**~~board~~ that the settlement is reasonable for all parties concerned, an~~ the agreed judgment or dismissal may be entered accordingly, even without a party's admission to liability.

➔Section 5. KRS 44.071 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The **commission**~~Board of Claims~~, created by **Section 1 of this Act**~~KRS 44.070~~, is hereby vested with full power, authority, and jurisdiction to investigate, hear proof, and compensate persons for damages sustained to either person or property as **a proximate**~~approximate~~ result of negligence on the part of any municipality, or any of its officers, agents, or employees while acting within the scope of their employment by the municipality, or any agency thereof, relating to the maintenance by the municipality of state-owned traffic control devices pursuant to a contract with the Commonwealth.
- (2) Claims for personal injury or property damage against any municipality, or any of its officers, agents, or employees while acting within the scope of their employment of the municipality, arising out of negligence in the maintenance of state-owned traffic control devices pursuant to a contract with the Commonwealth, shall be limited and reduced in the same manner as described in **Section 4 of this Act**~~KRS 44.070~~ with respect to claims against the Commonwealth.
- (3) It is the intention of subsections (1) and (2) of this section to provide every municipality and agency thereof, and their respective officers, agents, or employees with the same liability protection, restrictions, and reductions when such municipalities and agencies are performing maintenance on state-owned traffic control devices pursuant to a contract with the Commonwealth as the Commonwealth and its agencies, officers, and employees would enjoy if performing the work itself.

➔Section 6. KRS 44.072 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, ~~any of its cabinets, departments, bureaus, and~~ ~~or~~ agencies ~~and~~ ~~for any of~~ its officers, agents, ~~and~~ ~~or~~ employees while acting in the scope of their employment ~~by the Commonwealth or any of its cabinets, departments, bureaus or agencies~~ in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute. The **commission**~~Board of Claims~~ shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, agencies, or any of its officers, agents or employees while acting within the scope of their employment ~~by the Commonwealth, its cabinets, departments, bureaus or agencies~~.

➔Section 7. KRS 44.073 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) For purposes of **Section 6 of this Act**~~KRS 44.072~~, state institutions of higher education under KRS Chapter 164 are agencies of the state.

- (2) The ~~*commission*~~~~[Board of Claims]~~ shall have primary and exclusive jurisdiction over all negligence claims for the negligent performance of ministerial acts against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof while acting within the scope of their employment~~[by the Commonwealth or any of its cabinets, departments, bureaus, or agencies]~~.
- (3) The ~~*commission*~~~~[Board of Claims]~~ shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof.
- (4) The ~~*commission*~~~~[Board of Claims]~~ shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (5) No action for negligence against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof may be brought~~[initially]~~ in any other court or forum in the Commonwealth except the ~~*commission*~~~~[Board of Claims]~~ ~~unless~~~~[until]~~ the ~~*commission*~~~~[Board of Claims]~~ makes a *final* determination~~[,]~~ that ~~it has become final, that the Board of Claims has or~~ does not have primary and exclusive jurisdiction over the claim.
- (6) The determination by the ~~*commission*~~~~[Board of Claims]~~ becomes final only after all appellate rights have been finalized or waived.
- (7) Any applicable statute of limitations for bringing negligence actions in any court or forum other than the ~~*commission*~~~~[Board of Claims]~~ shall be tolled pending the final determination that the ~~*commission*~~~~[Board of Claims]~~ does not have primary and exclusive jurisdiction of the negligence claim.
- (8) No action for negligence may be brought in any court or forum other than the ~~*commission*~~~~[Board of Claims]~~ against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (9) Negligence as used herein includes negligence, gross negligence, or wanton negligence.
- (10) The defense of contributory negligence is not a complete bar to recovery of *a* plaintiff's claim in the ~~*commission*~~~~[Board of Claims]~~, and the doctrine of comparative negligence shall be utilized by the ~~*commission*~~~~[board]~~.
- (11) Except as otherwise provided by *Sections 4 to 18 of this Act*~~[this chapter]~~, nothing contained herein shall be construed to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, and agencies and its officers, agents, and employees.
- (12) Except as otherwise specifically set forth by statute and in reference to subsection (11) of this section, no action for damages may be maintained in any court or forum against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within their official capacity and scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.
- (13) The preservation of sovereign immunity referred to in subsections (11) and (12) of this section includes, but is not limited to, the following:
 - (a) Discretionary acts or decisions;
 - (b) Executive decisions;
 - (c) Ministerial acts;
 - (d) Actions in the performance of obligations running to the public as a whole;
 - (e) Governmental performance of a self-imposed protective function to the public or citizens; and
 - (f) Administrative acts.
- (14) The filing of an action in court or any other forum or the purchase of liability insurance or the establishment of a fund for self-insurance by the Commonwealth, its cabinets, departments, bureaus, or agencies or its agents, officers, or employees thereof for a government-related purpose or duty shall not be construed as a waiver of

sovereign immunity or any other immunity or privilege thereby held. Except as specifically set forth by statute, no counterclaim, set-off, recoupment, cross-claim, or other form of avoidance of the claim for damages may be asserted by any person when suit is brought against said person by the Commonwealth or any of its cabinets, departments, bureaus, or agencies thereof.

- (15) Neither the Commonwealth nor any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof shall be liable under a respondeat superior theory or any other similar theory for the acts of independent contractors, contractors, or subcontractors thereof or anyone else doing work or providing services for the state on a volunteer basis or pursuant to a contract therewith.

➔Section 8. KRS 44.084 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Hearings involving claimants who are residents of the Commonwealth shall be conducted in the county wherein the claim accrues, provided, however, that the parties may, with the approval of the *commission*~~board~~, agree upon a place not within such county for the conduct of hearings. Hearings involving claimants who are nonresidents shall be conducted in the county wherein the claim accrues, provided, however, that a hearing, with the approval of the *commission*~~board~~, may be conducted in Franklin County.

➔Section 9. KRS 44.086 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The *commission*~~board~~ may require affected state agencies to investigate claims and the incidents on which they are based and to furnish to the *commission*~~board~~ and the claimant in writing the facts learned by investigation. Such response shall be sufficiently specific to support a decision by the *commission*~~board~~ to pay or deny the claim. If the agency believes the state should refute a claim, the agency shall cite the facts about the incident that support its belief.
- (2) If the claim is under ~~two~~~~one~~ thousand *five hundred* dollars (\$2,500)~~(\$1,000)~~ it ~~may~~~~will~~ be investigated by the *commission*~~board~~ in-house and if the *commission*~~board~~ believes it needs additional facts before deciding the claim, the parties may provide the needed information by letter or as directed by the *commission*~~board~~.
- (3) The *commission*~~board~~ shall hold hearings on contested claims whose value is ~~two~~~~one~~ thousand *five hundred* dollars (\$2,500)~~(\$1,000)~~ or greater but may decide claims under ~~two~~~~one~~ thousand *five hundred* dollars (\$2,500)~~(\$1,000)~~ without a hearing.
- (4) At its hearings, the *commission*~~board~~, or any of its members, or any of its hearing officers shall hear the parties at issue and their representatives and witnesses.
- (5) The award or order shall be made by the *commission*~~board~~ or by a member assigned by the *chairperson*~~chairman~~ within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety (90) days after final submission in any event. The order or award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the question at issue shall be filed with the record of the claim and a copy of the order or award shall immediately be sent to the parties in dispute.
- (6) If an application for review is made to the *commission*~~board~~ within fourteen (14) days from the date of the order or award, the full *commission*~~board~~, if the first decision was not made by the full *commission*~~board~~, shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses, and shall make an order or award and file it as specified in subsection (5) above.

➔Section 10. KRS 44.090 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The attorneys appointed by the Governor to represent the Commonwealth's cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may present any opposition the Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may have to the allowance of any claim filed with the *commission*~~board~~. If such ~~cabinet~~ attorney is unavailable to represent his respective cabinet, department, bureau, agency, or employee thereof, then the Attorney General, either by regular or special assignment, shall designate one (1) of his assistants to present any opposition the Commonwealth or any of its cabinets, departments, bureaus, agencies, or officers, agents, or employees thereof may have to the allowance of any claim filed with the *commission*~~board~~.

➔Section 11. KRS 44.100 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The assistant attorneys general or attorneys~~[,]~~ appointed by the Governor to represent the Commonwealth's cabinets, departments, agencies or employees, agents, or officers thereof, assigned to defend claims filed with the ~~commission[board]~~ shall receive no additional compensation for the performance of their duties before the ~~commission[board]~~; provided, however, members of the ~~commission[board]~~, assistant attorneys general, and all employees acting for the ~~commission[board]~~ shall be recompensed for all necessary and actual expenses they may incur incident to their duties for or before the ~~commission[board]~~. All awards and cost of operation assessed by the ~~commission[board]~~ against the Department of Highways shall be paid out of ~~the~~ state road fund~~[,]~~ upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. All awards and ~~costs[est]~~ of operation assessed by the ~~commission[board]~~ against other cabinets or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such cabinets or agencies respectively, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. All amounts necessary to pay awards and ~~costs[est]~~ of operation assessed by the ~~commission[board]~~ against all other cabinets or agencies of the Commonwealth shall be paid out of the general fund of the Commonwealth, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. The executive secretary of the ~~commission[board]~~ shall maintain accurate records reflecting the costs incident to the operation of the ~~commission[board]~~. At the close of each quarter-year period he shall summarize the cost and shall bill each cabinet, commission, board, or agency which has had cases before the ~~commission[board]~~ for a pro rata share of the cost of operation for the appropriate calendar quarter computed in a manner deemed just and equitable by the ~~commission[board]~~. Each cabinet, commission, board, or agency shall remit quarterly their share of the cost of operation to the ~~commission[board]~~ in the manner provided by law. The ~~commission[Board of Claims]~~ shall have the power and authority to determine the right of any successful party to an action before it to recover from the opposing party the costs incurred by him or it in such action; and such decision shall not be subject to appeal. Costs shall not include attorneys' fees.

➔Section 12. KRS 44.110 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) All claims must be filed with the ~~commission[Board of Claims]~~ within one (1) year from the time the claim for relief accrued.
- (2) The claim for relief shall be deemed to accrue at the time of the negligent act with regard to property damage.
- (3) The claim for relief for personal injury shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury shall be commenced beyond two (2) years from the date on which the alleged negligent act or omission actually occurred.
- (4) Notwithstanding subsection (3) of this section, the claim for relief for medical malpractice shall be deemed to accrue at the time the personal injury is first discovered by the claimant or in the exercise of reasonable care should have been discovered; however, no action for personal injury as a result of medical malpractice shall be commenced beyond three (3) years from the date on which the alleged negligent act or omission of malpractice actually occurred.
- (5) If at the time the alleged negligent act or omission occurred or if at the time the claim for relief accrued or thereafter, the claimant is an infant or of unsound mind or under any other legal disability to file suit, a guardian or next friend or committee or other qualified representative shall bring such action in the ~~commission[Board of Claims]~~ on behalf of such person within the same time limitation set forth herein or the claim is barred, notwithstanding KRS 413.170 and 413.280. If there is no guardian or committee or he is unwilling or unable to act or is himself a claimant, the ~~commission[Board of Claims]~~ shall appoint a guardian ad litem to represent the interests of the claimant under legal disability. The ~~commission[Board of Claims]~~ shall allow the guardian ad litem a reasonable fee for his services, to be taxed as costs.

➔Section 13. KRS 44.120 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

An award shall be made only after consideration of the facts surrounding the matter in controversy, and no award shall be made unless the ~~commission[board]~~ is of the opinion that the damage claimed was caused by such negligence on the part of the Commonwealth or its agents as would entitle claimant to a judgment in an action at law if the state were amenable to such action.

➔Section 14. KRS 44.130 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Orders, awards, and judgments of the *commission*~~board~~ may be enforced by filing in the office of the clerk of the Franklin Circuit Court an authenticated copy of the order, award, or judgment, which, when ordered entered by the judge of the court, shall be entered on the order book and become to all effects and purposes an order, award, or judgment of the court, and be enforceable in a like manner.

➔Section 15. KRS 44.140 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Appeals may be taken by a state agency from all awards of the *commission*~~board~~ where the amount in controversy, exclusive of interest and costs, is more than ~~two~~~~one~~ thousand *five hundred* dollars ~~(\$2,500)~~~~(\$1,000)~~. Appeals shall be taken to the Circuit Court of the county wherein the hearing was conducted, provided, however, that an appeal involving a nonresident claimant may be taken by a state agency to the Franklin Circuit Court ~~with the approval of the board. No state agency can appeal any decision of the board without securing the prior approval of the Attorney General.~~ Appeals shall be taken within *thirty* ~~(30)~~~~(forty five (45))~~ days from the rendition of the award, and the method of appeals shall follow as nearly as may be the rules of civil procedure, except the Commonwealth shall not be required to execute bond.
- (2) Any claimant whose claim is ~~two~~~~one~~ thousand *five hundred* dollars ~~(\$2,500)~~~~(\$1,000)~~ or greater may within *thirty* ~~(30)~~~~(forty five (45))~~ days after receipt of the copy of the report containing the final decision of the *commission*~~board~~, file a proceeding in the Circuit Court of the county wherein the hearing was conducted to review the decision of the *commission*~~board~~. A copy of the filing and complaint shall be served on the Attorney General in the manner provided by the rules of civil procedure.
- (3) The *commission*~~board~~, the state agency, and the claimant shall be necessary parties to such appeals. It shall not be necessary for the *commission*~~board~~ to file responsive pleadings unless it so desires.
- (4) The executive director of the *commission*~~board~~ shall within thirty (30) days after service of the summons file the entire original record properly bound, with the clerk of the Circuit Court, after certifying that such record is the *commission's*~~board's~~ entire original record and such record shall be considered by the Circuit Court in its review. If either party requests a transcript of the evidence in writing, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days from the date of the written request.
- (5) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the *commission*~~board~~. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the *commission*~~board~~ acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

➔Section 16. KRS 44.150 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Appeals may be taken to the Court of Appeals under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by the Circuit Court, but no motion for a new trial or bill of exceptions shall be necessary. The Court of Appeals shall review only the matters subject to review by the Circuit Court and also errors of law arising in the Circuit Court and made reviewable by the Rules of Civil Procedure, where not in conflict with *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~.

➔Section 17. KRS 44.160 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any action prosecuted to award, judgment, or final decision, including dismissal, under the provisions of *Sections 4 to 18 of this Act*~~[KRS 44.070 to 44.160]~~ shall preclude the right of a claimant to sue the Commonwealth, its cabinets, departments, bureaus, ~~and~~~~or~~ agencies, ~~and~~~~or~~ its officers, agents, or employees in the *commission*~~Board of Claims~~ or any other forum, except as provided in *subsection (5) of Section 7 of this Act*~~[KRS 44.073(5)]~~ when the *commission*~~board~~ determines that it has no jurisdiction over the claim.

- (2) The final determination of the *commission*~~[board]~~ shall be given the same res judicata and collateral estoppel effect as any other judicial determination; and, if entered as provided in *Section 14 of this Act*~~[KRS 44.130]~~, it shall be granted the full faith and credit given to judgments from the Commonwealth's courts in this state and the courts of the United States.

➔Section 18. KRS 44.165 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

No claim shall be brought before the *commission*~~[board]~~ unless the value of the total amount of damages claimed therein is ~~two~~~~one~~ hundred *fifty* dollars ~~(\$250)~~~~(\$100)~~ or greater.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

Sections 20 to 25 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (2) of Section 2 of this Act.

➔Section 20. KRS 131.325 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The *commission*~~[Kentucky Board of Tax Appeals]~~ shall maintain the following records:

- (1) A register wherein the *commission*~~[board]~~ shall enter by its title any proceedings appealed to it according to the date of its commencement. Thereafter, until after entry of the *commission's*~~[board's]~~ opinion and final order, there shall be noted therein according to the date, the filing or return of any paper or process or the making of any order, ruling, or other directive in or concerning such proceeding, and any other steps therein.
- (2) The files of the *commission*~~[board]~~ consisting of all papers or other process filed with or by the *commission*~~[board]~~.

➔Section 21. KRS 131.335 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) *The commission may hold hearings at any location within the Commonwealth, with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable.*
- (2) When any member or employee of the *commission*~~[board]~~ is attending hearings at any place other than Frankfort, Kentucky, expenses necessarily incurred in the performance of such duty shall be paid by the state upon certification by the *executive director*~~[chairman]~~ of the *commission*~~[board]~~ of an itemized statement of such expenses in accordance with Finance and Administration Cabinet regulations.

➔Section 22. KRS 131.340 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The *commission*~~[Kentucky Board of Tax Appeals]~~ *pursuant to Section 2 of this Act*, is~~[hereby]~~ vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the *commission*~~[Kentucky Board of Tax Appeals]~~ shall be de novo and conducted in accordance with KRS Chapter 13B *and administrative regulations promulgated by the commission.*
- (2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the *commission*~~[board]~~ shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.
- (3) Any party~~[, including the Attorney General, on behalf of the Commonwealth,]~~ aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure~~[,]~~ may prosecute an appeal to the *commission*~~[board]~~ by filing a complaint or petition of appeal before the *commission*~~[board]~~ within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.
- (4) If the Department of Revenue is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the department and prosecutes an appeal to the *commission*~~[Kentucky Board of Tax Appeals]~~ as authorized in subsection (3) of this section, the commissioner of revenue shall, within twenty (20) days, certify in writing to the *commission*~~[Kentucky Board of Tax Appeals]~~ the assessment recommended.

- (5) The ~~*commission*~~~~[Kentucky Board of Tax Appeals]~~ shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

➔Section 23. KRS 131.355 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) All proceedings before the ~~*commission*~~~~[board]~~ shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the ~~*commission*~~~~[board]~~ include information provided to the Department of Revenue by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.
- (2) *The full commission may*~~[All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to]~~ hear an~~[individual]~~ appeal *or assign one (1) of its members or a hearing officer to hear an appeal.* The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the ~~*commission*~~~~[board]~~.

➔Section 24. KRS 131.365 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The final orders of the ~~*commission*~~~~[Kentucky Board of Tax Appeals]~~ shall be binding upon all parties until changed or modified by the courts of this state. If no appeal to the courts is prosecuted, the final order of the ~~*commission*~~~~[board]~~ shall constitute a final determination.
- (2) If the ~~*commission*~~~~[board]~~ finds that other issues are necessary to a full determination of the controversy, it may remand the whole proceeding to the agency from which the appeal was prosecuted for further determination. The parties may stipulate to the determination of the other issues without remand.
- (3) Any changes in ad valorem property tax assessment rolls, tax bills, or the application by any agency of the tax laws of the state shall be in conformity with the ~~*commission's*~~~~[board's]~~ final order.
- (4) In the case of any appeal, any taxes, interest, or penalty paid but found by the ~~*commission*~~~~[board]~~ to be in excess of that legally due shall be ordered refunded to the taxpayer.

➔Section 25. KRS 131.370 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any party aggrieved by any final order of the ~~*commission*~~~~[Kentucky Board of Tax Appeals]~~, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax may be stayed by the filing of a supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580.

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

Sections 27 to 49 of this Act shall apply to the Kentucky Claims Commission's power and authority outlined in subsection (3) of Section 2 of this Act.

➔Section 27. KRS 346.010 is repealed and reenacted as a new section of KRS Chapter 49 to read as follows:

The General Assembly hereby declares that it serves a public purpose and is of benefit to the state to indemnify those needy persons who are innocent victims of criminal acts and who suffer bodily or psychological injury or death as a consequence thereof. Such persons or their dependents may thereby suffer disability, incur financial hardships and

become dependent upon public assistance. To that end, it is the General Assembly's intent that aid, care, and support be provided by the state, as a matter of grace, for such victims of crime.

➔Section 28. KRS 346.020 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

As used in *Sections 27 to 49 of this Act*~~[this chapter]~~, unless the context otherwise requires:

- (1) ~~["Board" means the Crime Victims Compensation Board;~~
- ~~(2) —~~ "Child" means any person less than eighteen (18) years of age;
- ~~(2)(3)~~ "Claimant" means any of the following claiming compensation under *Sections 27 to 49 of this Act*~~[this chapter]~~: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;
- ~~(3)(4)~~ "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, psychological injury, or death, and is punishable by fine, imprisonment, or death. Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010, driving under the influence;
- ~~(4)(5)~~ "Family," when used with reference to a person, shall mean:
 - (a) Any person related to such person within the third degree of consanguinity;
 - (b) Any person maintaining a sexual relationship with such person; or
 - (c) Any person residing in the same household with such person; and
- ~~(5)(6)~~ (a) "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:
 1. Criminally injurious conduct;
 2. A good faith effort to prevent criminally injurious conduct; or
 3. A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.
- (b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:
 1. The crime would be compensable had it occurred inside this state; and
 2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in *Section 31 of this Act*~~[KRS 346.050]~~.
- (c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

➔Section 29. KRS 346.025 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) "Victim" shall also include nonresidents of this state who suffer losses as a direct result of criminal acts occurring within this state.
- (2) This section shall be operative only during those time periods during which the ~~commission~~~~[board]~~ determines that federal funds are available to the state for the compensation of victims of crime.

➔Section 30. KRS 346.040 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

In addition to the powers and authority outlined in Section 2 of this Act, the ~~commission~~~~[board]~~ shall have the following powers and duties:

- (1) ~~[To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;~~

- (2) ~~]~~To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of *Sections 27 to 49 of this Act*~~[this chapter]~~, including administrative regulations for the approval of attorney's fees for representation before the *commission*~~[board]~~ or upon judicial review~~[as provided for in KRS 346.110]~~;
- (2)~~[(3)]~~ To hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitations;
- (3)~~[(4)]~~ To request from prosecuting attorneys and law enforcement officers investigations and data to enable the *commission*~~[board]~~ to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of District Court records does not apply to proceedings under *Sections 27 to 49 of this Act*~~[this chapter]~~;
- (4)~~[(5)]~~ To hold hearings in accordance with the provisions of KRS Chapter 13B. The powers provided in this subsection may be delegated by the *commission*~~[board]~~ to any member or employee thereof. If necessary to carry out any of its powers and duties, the *commission*~~[board]~~ may petition any Circuit Court for an order;
- (5)~~[(6)]~~ ~~To take or cause to be taken affidavits or depositions within or without the state;~~
- (7)~~[(7)]~~ Upon the filing of an application by a claimant, to negotiate binding fee settlements with the providers of services to claimants that may be eligible for an award under *subsection (3) of Section 37 of this Act*~~[KRS 346.130(3)]~~;
- (6)~~[(8)]~~ To make available for public inspection all *commission*~~[board]~~ decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions;
- (7)~~[(9)]~~ To publicize widely the availability of reparations and information regarding the claims therefor; and
- (8)~~[(10)]~~ To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

➔Section 31. KRS 346.050 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~:
- (a) A victim of criminally injurious conduct;
 - (b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;
 - (c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and
 - (d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.
- (2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the *commission*~~[board]~~ may award compensation to a victim or dependent who is a relative, family, or household member of the offender only if the *commission*~~[board]~~ can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.
- (3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for Health and Family Services.

➔Section 32. KRS 346.055 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

A person who suffers personal injury as a result of conduct in violation of KRS 532.031 is a victim of criminally injurious conduct as defined in *Section 28 of this Act*~~[KRS 346.020]~~ and is eligible for awards pursuant to *Sections 27 to 49 of this Act*~~[KRS Chapter 346]~~.

➔Section 33. KRS 346.060 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) A claim form may be filed by a person eligible to receive an award, as provided in *Section 31 of this Act*~~[KRS 346.050]~~ or, if such person is a minor, by his parent or guardian.
- (2) A claim form must be filed by the claimant not later than five (5) years after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than five (5) years after the death of the victim; provided, however, that upon good cause shown, the *commission*~~[board]~~ may extend the time for filing if, in a particular case, the interest of justice so requires.
- (3) Claims shall be filed in the office of the *commission*~~[board]~~ in person or by mail *in accordance with the administrative regulations promulgated by the commission*. Only printed claim forms supplied by the *commission*~~[board]~~ shall be accepted. The *commission*~~[board]~~ shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in *Sections 27 to 49 of this Act*~~[this chapter]~~ and meeting the requirements as to form in the rules and regulations of the *commission*~~[board]~~.
- (4) Upon filing of a claim pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~, the *commission*~~[board]~~ shall promptly notify the United States attorney (if a federal offense is involved), the Commonwealth's attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, Commonwealth's attorney, or county attorney advises the *commission*~~[board]~~ that a criminal prosecution is pending upon the same alleged crime and requests that action by the *commission*~~[board]~~ be deferred, the *commission*~~[board]~~ shall defer all proceedings under *Sections 27 to 49 of this Act*~~[this chapter]~~ until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, Commonwealth's or county attorney, and the claimant. When such criminal prosecution has been concluded such United States attorney, Commonwealth's or county attorney shall promptly so notify the *commission*~~[board]~~. Nothing in this section shall limit the authority of the *commission*~~[board]~~ to grant emergency awards pursuant to *Section 36 of this Act*~~[KRS 346.120]~~.

➔Section 34. KRS 346.080 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) A claim, when accepted for filing, shall be assigned by the *executive director*~~[clerk]~~ of the *commission*~~[board]~~ to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.
- (2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.
- (3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the *commission*~~[board]~~ may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.
- (4) For purposes of *Sections 27 to 49 of this Act*~~[this chapter]~~, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under *Sections 27 to 49 of this Act*~~[this chapter]~~ in which that condition is an element.
- (5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.
- (6) Upon completion of the investigator's report, the claim shall be assigned to a *commission*~~[board]~~ member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the *commission*~~[board]~~ member is unable to decide the claim upon the basis of the papers and the report, he shall order a hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (7) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the *commission*~~[board]~~ member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to *Section 37 of this Act*~~[KRS 346.130]~~ or deny the claim. The *commission*~~[board]~~ shall review the recommended order and any exceptions filed to it, and shall by majority vote issue a final order.

- (8) A final order of the *commission*~~[board]~~ may be appealed by~~[the Attorney General or a claimant by]~~ filing a petition for judicial review in *the county where the claim accrued or in* Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 35. KRS 346.100 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Following the initial filing of a claim, if a claimant or victim does not take such further steps as may be necessary to support or perfect the claim as may be required by the *commission*~~[board]~~ within thirty (30) days after such requirement is made by the *commission*~~[board]~~, the claimant or victim shall be deemed in default. In such case the *commission*~~[board]~~ shall summarily deny the claim and the claimant or victim shall be forever barred from reasserting the claim. The *commission*~~[board]~~ may remit such proceedings on good cause shown that the failure to take the steps required by the *commission*~~[board]~~ was totally and completely beyond the control of the claimant or victim.

➔Section 36. KRS 346.120 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Notwithstanding the provisions of *Section 34 of this Act*~~[KRS 346.080]~~, if it appears to the *commission*~~[board]~~ member to whom a claim is assigned, prior to taking action upon such claim that:
- (a) Such claim is one with respect to which an award probably will be made; and
 - (b) Undue hardship will result to the claimant if immediate payment is not made. Emergency payment under subsection (2) of this section may be made.
- (2) Upon such findings under subsection (1) of this section the *commission*~~[board]~~ member may make an emergency award to the claimant pending a final decision in the case provided that:
- (a) The amount of such emergency award shall not exceed five hundred dollars (\$500);
 - (b) The amount of such emergency award shall be deducted from any final award made to the claimant; and
 - (c) The excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the *commission*~~[board]~~.

➔Section 37. KRS 346.130 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) No award shall be made unless the *commission*~~[board]~~ or *commission*~~[board]~~ member, as the case may be, finds that:
- (a) Criminally injurious conduct occurred;
 - (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
 - (c) Police or court records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police or court records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the *commission*~~[board]~~, for good cause shown, finds the delay to have been justified.
- (2) Except for claims related to sexual assault and domestic violence, the *commission* ~~[board]~~ upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.
- (3) Any award made pursuant to *Sections 27 to 49 of this Act*~~[this chapter]~~ shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the *commission*~~[board]~~ stating what treatment is planned and for what period of time. The *commission*~~[board]~~ shall have the power to discontinue payment of mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were stolen, destroyed, or damaged during the crime.

- (4) Any award made for loss of earnings or financial support may be considered for a claimant who has loss of support or wages due to the crime for which the claim is filed. Unless reduced pursuant to other provisions of **Sections 27 to 49 of this Act**~~[this chapter]~~, the award shall be equal to net earnings at the time of the criminally injurious conduct; however, no such award shall exceed one hundred fifty dollars (\$150) for each week of lost earnings or financial support. The wage earner or source of support must have been employed or paying support at the time the crime occurred. Said employment or support shall be verified by the staff of the **commission**~~board~~ after information is provided by the claimant or victim. Should the claimant or victim fail to supply the **commission**~~board~~ with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the **commission**~~board~~ among the claimants.
- (5) The **commission**~~board~~ is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars (\$5,000).
- (6) Any award made under **Sections 27 to 49 of this Act**~~[this chapter]~~ shall not exceed twenty-five thousand dollars (\$25,000) in total compensation to be received by or paid on behalf of a claimant from the fund.
- (7) No award shall be made for any type of property loss or damage, except as otherwise permitted in **Sections 27 to 49 of this Act**~~[this chapter]~~.

➔Section 38. KRS 346.135 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Upon the filing of an application for a claim with the **commission**~~board~~, all debt collection actions by a creditor or the creditor's agent, against the claimant for a debt or expense covered under **subsection (3) of Section 37 of this Act**~~[KRS 346.130(3)]~~ and related to the substance of the claim shall cease pending a resolution of the claim by the **commission**~~board~~, if the claimant:
 - (a) Provides written notice to the creditor or creditor's agent that a claim has been submitted to the **commission**~~board~~; and
 - (b) Authorizes the creditor or creditor's agent to confirm with the **commission** ~~board~~ the claimant's application with the **commission**~~board~~ and that the debt or expense upon which the collection action is based may be covered under **subsection (3) of Section 37 of this Act**~~[KRS 346.130(3)]~~.
- (2) The **commission**~~board~~ shall, upon the written request of a creditor or creditor's agent, notify the creditor or creditor's agent when a claim has been resolved.

➔Section 39. KRS 346.140 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any award made pursuant to **Sections 27 to 49 of this Act**~~[this chapter]~~ shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:
 - (a) From or on behalf of the person who committed the crime;
 - (b) Under insurance programs mandated by law;
 - (c) From public funds;
 - (d) Under any contract of insurance wherein the claimant is the insured or beneficiary;
 - (e) As an emergency award pursuant to **Section 36 of this Act**~~[KRS 346.120]~~; and
 - (f) From donations made on behalf of the victim or claimant toward expenses incurred as a result of the crime.
- (2) In determining the amount of an award, the **commission**~~board~~ or **commission** ~~board~~ member shall determine whether, because of his or her conduct, the claimant or the victim of such crime contributed to the infliction of the victim's injury, and shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; however, the **commission**~~board~~ or **commission**~~board~~ member may disregard for this purpose the responsibility of the claimant or the victim for the victim's injury where the record shows that such responsibility was attributable to efforts by the claimant or victim to prevent a crime or an attempted crime from occurrence in his or her presence or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony. The **commission**~~board~~ or **commission**~~board~~

members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The ~~commission~~~~board~~ or ~~commission~~~~board~~ member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.

- (3) The ~~commission~~~~board~~ or ~~commission~~~~board~~ member may consider whether the victim's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the ~~commission~~~~board~~ or ~~commission~~~~board~~ member finds that the claimant will not suffer serious financial hardship if not granted financial assistance pursuant to *Sections 27 to 49 of this Act*~~this chapter~~, the ~~commission~~~~board~~ or ~~commission~~~~board~~ member shall deny an award. In determining such serious financial hardship, the ~~commission~~~~board~~ or ~~commission~~~~board~~ member shall consider all of the financial resources of the claimant. The ~~commission~~~~board~~ shall establish specific standards by rule for determining such serious financial hardships.

➔Section 40. KRS 346.145 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

Any person who procures or attempts to procure compensation with this ~~commission~~~~board~~ by filing false information~~[-]~~ shall have the claim denied and be forever barred from filing a claim with this ~~commission~~~~board~~.

➔Section 41. KRS 346.150 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to *Sections 27 to 49 of this Act*~~this chapter~~ shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.
- (2) The ~~commission~~~~board~~ shall reconsider at least annually every award being paid in installments. An order or reconsideration of an award shall not require refund of amounts previously paid unless the award was obtained by fraud.

➔Section 42. KRS 346.155 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) The ~~commission~~~~board~~ may award a lump-sum payment not to exceed twenty-five thousand dollars (\$25,000) to the family of a police officer employed by a city, county, or urban-county government who is killed in the line of duty as a police officer for such city, county, or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county, or urban-county.
- (2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

➔Section 43. KRS 346.157 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The ~~commission~~~~board~~ may apply for funds from, and submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

➔Section 44. KRS 346.160 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

The record of a proceeding before the ~~commission~~~~board~~ or a ~~commission~~~~board~~ member shall be a public record; provided, however, that any record or report obtained by the ~~commission~~~~board~~, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation.

➔Section 45. KRS 346.165 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Every person contracting with any person or the representative or assignee of any person accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the ~~commission~~~~board~~ any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives.
- (2) After deducting all sums paid to the victim by the ~~commission~~~~board~~, the ~~commission~~~~board~~ shall deposit such moneys in its accounts for the benefit of and payable to any victim of crimes committed by such person,

provided that such person is eventually convicted of the crime and provided further that such victim, within five (5) years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.

- (3) Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by such person that five (5) years have elapsed from the **commission's[board's]** receipt of such funds and that such person has not been convicted of said crime and further that no actions are pending against such person in connection with the crime or pursuant to this section, the **commission[board]** shall immediately pay over any such moneys to such person.
- (4) Notwithstanding any inconsistent provision of the civil practice law and rules with respect to the timely bringing of an action, the five (5) year period provided for in subsection (2) of this section shall not begin to run until the **commission[board]** has received such moneys.
- (5) Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.
- (6) The failure of a person to pay moneys to the **commission[board]** in accordance with subsection (1) shall create a debt due and owing to the **commission[board]** from that person and shall constitute a preferential lien to the state which may be collected by the **commission[board]** by civil process.

➔Section 46. KRS 346.170 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) No right of action at law against a person who has committed a criminal act for damages as a consequence of such act shall be lost as a consequence of receiving benefits under the provisions of **Sections 27 to 49 of this Act[this chapter]**. In the event any person receiving benefits under **Sections 27 to 49 of this Act[this chapter]** additionally seeks a remedy for damages from the person or persons who have committed the criminal act resulting in damages, then and in that event the **commission[board]** shall be subrogated to and have a lien upon any recovery so made to the extent of the payments made by the state to or on behalf of such person under **Sections 27 to 49 of this Act[this chapter]**.
- (2) If compensation is awarded, the state is subrogated to all the claimant's rights to receive or recover benefits or advantages, for economic loss for which and to the extent only that compensation is awarded from a source which is, or, if readily available to the victim or claimant would be, a collateral source.

➔Section 47. KRS 346.180 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) Any payment of benefits to or on behalf of a victim under **Sections 27 to 49 of this Act[this chapter]** creates a debt due and owing to the state by any person found to have committed such criminal act in either a civil or criminal court proceeding in which he is a party.
- (2) The court when placing any convicted person, who owes a debt to the state as a consequence of a criminal act, on probation and conditional discharge as provided in KRS 533.020 may set as a condition of the probation or conditional discharge the payment of the debt to the state. The court also may set the schedule or amounts of payments to be made subject to modification based on change of circumstances.
- (3) The parole board shall also have the right to make payment of the debt to the state a condition of parole under the provisions of KRS Chapter 439 subject to modification based on change of circumstances.

➔Section 48. KRS 346.185 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the **commission[Crime Victims' Compensation Board]**. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.
- (2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; disbursements provided under KRS 42.320(2)(g); and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the **commission[board]** shall be used to provide assistance to programs for victims and the **commission[board]** shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds

in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the ~~commission~~~~Crime Victims' Compensation Board~~.

➔Section 49. KRS 346.200 is repealed, reenacted as a new section of KRS Chapter 49, and amended to read as follows:

- (1) There is established in the State Treasury the sexual assault victim assistance fund to be administered by the ~~commission~~~~Crime Victims' Compensation Board~~ for the purpose of funding medical examinations for victims of sexual assault as provided in subsection (4) of this section and in KRS 216B.400. All moneys deposited or paid into the sexual assault victim assistance fund are appropriated and shall be available to the ~~commission~~~~Crime Victims' Compensation Board~~. Funds shall be disbursed by the State Treasurer upon the warrant of the ~~commission~~~~Crime Victims' Compensation Board~~.
- (2) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations. Any federal matching funds received by the ~~commission~~~~board~~ or the crime victims' compensation fund for sexual assault victim assistance payments shall be deposited into the sexual assault victim assistance fund.
- (3) Any unencumbered or unallocated balances in the sexual assault victim assistance fund shall be invested as provided in KRS 42.500(9). Any income earned from investment, along with the unallocated or unencumbered balances in the fund, shall not lapse and shall be deemed a trust and agency account available solely for the purposes specified in subsection (1) of this section.
- (4)
 - (a) For the purposes of this section, a children's advocacy center is a center as defined in KRS 620.020 that operates consistent with administrative regulations promulgated by the Cabinet for Health and Family Services.
 - (b) Upon receipt of a completed original claim form supplied by the ~~commission~~ ~~board~~ and itemized bill for a child sexual abuse medical examination performed at a children's advocacy center, the ~~commission~~~~board~~ shall reimburse the children's advocacy center for actual costs up to but not exceeding the amount of reimbursement established through administrative regulation promulgated by the Department for Medicaid Services.
 - (c) Independent investigation by the ~~commission~~~~Crime Victims' Compensation Board~~ shall not be required for payment of claims under this section; however, the ~~commission~~~~board~~ may require additional documentation as proof that the medical examination was performed.
- (5) If sexual assault victim assistance funds are insufficient to pay claims under subsection (4) of this section or KRS 216B.400, payment shall be made from the Crime Victims' Compensation Fund.

➔SECTION 50. A NEW SECTION OF KRS CHAPTER 49 IS CREATED TO READ AS FOLLOWS:

Any person who fails or refuses to obey a subpoena or order of the commission made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

➔Section 51. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, **Kentucky Claims Commission**~~Board of Tax Appeals, Board of Claims~~, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.

➔Section 52. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.

- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.

- 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
 - 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.

6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) **Kentucky Claims Commission**~~[Crime Victims Compensation Board.~~
 - ~~(c) Board of Claims.~~
 - ~~(d) Kentucky Board of Tax Appeals.~~
 - ~~(c)(e)~~ Kentucky Boxing and Wrestling Authority.
 - ~~(d)(f)~~ Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - ~~(e)(g)~~ Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - ~~(f)(h)~~ Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - ~~(g)(i)~~ Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
 - ~~(h)(j)~~ Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
 - ~~(i)(k)~~ Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.

4. Division of Agent Licensing.
5. Division of Insurance Fraud Investigation.
6. Consumer Protection Division.
7. Division of Kentucky Access.
- (j)(4) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:

- (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.

- (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.

9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.

- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 53. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (3) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
 - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- (4) ***There is established within the Public Protection Cabinet the Kentucky Claims Commission pursuant to Section 1 of this Act.***
- (5) The following agencies are attached to the Public Protection Cabinet for administrative purposes only~~, except as provided in KRS 131.330~~:
 - (a) ~~{Crime Victims Compensation Board;~~
 - (b) ~~Board of Claims;~~
 - (c) ~~Kentucky Board of Tax Appeals;~~
 - (d) ~~}Kentucky Boxing and Wrestling Authority; and~~
 - (b)(e) Kentucky Horse Racing Commission.

➔Section 54. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any

other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

- (2) The provisions of this chapter shall not apply to:
- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services
 - 1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 - 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 - 3. Department for Income Support
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
- (c) Justice and Public Safety Cabinet
 1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet
 1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
 1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 2. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
 1. ***Kentucky Claims Commission***~~[Board of Claims]~~
 - a. Liability hearings conducted under authority of ***subsection (1) of Section 2 and Sections 4 to 18 of this Act***~~[KRS Chapter 44]~~
- (g) Education and Workforce Development Cabinet
 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State

1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 3. Campus residency hearings conducted under authority of KRS Chapter 164
 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

➔Section 55. KRS 17.991 is amended to read as follows:

Any person who violates KRS 17.552 shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000), and said fine shall be paid to the Crime Victim Compensation Fund as established in *Section 48 of this Act* ~~[KRS Chapter 346]~~.

➔Section 56. KRS 39A.120 is amended to read as follows:

If the owner of any property seized, taken, or condemned pursuant to KRS 39A.110 refuses to accept as adequate the compensation fixed by the Governor, the owner may present a claim to the *Kentucky Claims Commission* ~~[Board of Claims]~~, which shall hear and determine it according to the provisions of *Sections 4 to 18 of this Act* ~~[KRS Chapter 44]~~ and the administrative regulations of the *commission* ~~[board]~~.

➔Section 57. KRS 39A.130 is amended to read as follows:

- (1) The owner of property seized, taken, or condemned may appeal from the award of the *Kentucky Claims Commission* ~~[Board of Claims]~~ to the Circuit Court of the county of the owner's residence. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal. A trial de novo shall not be allowed unless the record on appeal is not sufficient to determine the matter from the record, but if the action is tried, it shall be tried according to the practice prescribed for the trial of jury cases.

- (2) An appeal from the judgment of Circuit Court may be taken to the Court of Appeals.

➔Section 58. KRS 39A.140 is amended to read as follows:

- (1) If the owner of property seized, taken, or condemned accepts as adequate the compensation fixed by the Governor, the owner shall file a statement of the amount of compensation from the Governor with the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer for the amount of the compensation in favor of the person entitled to payment.
- (2) If the compensation is determined by award of the **Kentucky Claims Commission** ~~{Board of Claims}~~ or judgment of a court, as provided in KRS 39A.110, 39A.120, and 39A.130, a certified copy of the award or judgment shall be filed with the Finance and Administration Cabinet which shall draw a warrant on the State Treasurer for the amount of the award or judgment.
- (3) The State Treasurer shall pay the warrants out of any money in the Treasury not otherwise appropriated.

➔Section 59. KRS 39E.180 is amended to read as follows:

Any claims against the commission or committees or their members shall be filed with the **Kentucky Claims Commission** ~~{State Board of Claims}~~ in accordance with **Sections 4 to 18 of this Act** ~~{KRS Chapter 44}~~.

➔Section 60. KRS 42.320 is amended to read as follows:

- (1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.
- (2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:
 - (a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;
 - (b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars (\$5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;
 - (c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars (\$3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;
 - (d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;
 - (e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars (\$2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;
 - (f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars (\$1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department for Public Advocacy;
 - (g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars (\$1,700,000), shall be paid into the crime victims' compensation fund created in **Section 48 of this Act** ~~{KRS 346.185}~~;
 - (h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars (\$350,000), shall be paid to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
 - (i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars (\$5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and
 - (j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.

- (3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.
- (4) Any moneys collected above the prescribed amount shall be paid into the general fund.

➔Section 61. KRS 44.055 is amended to read as follows:

- (1) Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles, including boats, owned by the state and operated by state employees when in the conduct of official business. The executive director of insurance, upon recommendation of the secretary of the Finance and Administration Cabinet, shall initiate and be responsible for the purchase of a blanket liability insurance policy to cover the officers and employees of the several state agencies and shall determine, by administrative regulation, the policy limits that shall be applicable to the persons covered in each such affected agency not to exceed the limit prescribed in *Section 4 of this Act* ~~[KRS 44.070]~~.
- (2) Nothing contained in this section shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in *Sections 4 to 18 of this Act* ~~[KRS 44.070 to 44.160]~~.
- (3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

➔Section 62. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.
- (2) The minimum sum of the bond for the following offices shall be as follows:

| | |
|-----------------------------------------------|----------|
| Secretary of State | \$10,000 |
| Attorney General | 10,000 |
| State Treasurer | 300,000 |
| Secretary for economic development | 10,000 |
| Commissioner of Agriculture | 10,000 |
| Secretary for education | 10,000 |
| Auditor of Public Accounts | 25,000 |
| Adjutant general | 10,000 |
| Secretary of finance and administration | 100,000 |
| Commissioner of revenue | 50,000 |
| Secretary of transportation | 50,000 |
| Commissioner of highways | 50,000 |
| Secretary of justice and public safety | 50,000 |
| Secretary of corrections | 25,000 |
| Commissioner for public health services | 10,000 |
| Secretary of labor | 5,000 |
| Commissioner for natural resources | 50,000 |
| State librarian | 5,000 |

| | |
|-------------------------------------------------------------------------------------|---------|
| Commissioner of alcoholic beverage control | 10,000 |
| Commissioner of financial institutions | 25,000 |
| Secretary for energy and environment..... | 50,000 |
| Commissioner of insurance | 50,000 |
| Commissioner of vehicle regulation | 10,000 |
| Commissioner of fish and wildlife resources | 5,000 |
| Secretary for health and family services | 20,000 |
| Commissioner of environmental protection | 10,000 |
| Secretary of public protection | 10,000 |
| Secretary of tourism, arts and heritage | 25,000 |
| Commissioner for community based services | 20,000 |
| Member of the Public Service Commission | 10,000 |
| Member of State Fair Board | 10,000 |
| Member of Fish and Wildlife Resources Commission | 1,000 |
| Member of Kentucky <i>Claims Commission</i> [Board of Tax Appeals] | 10,000 |
| Associate member of Alcoholic Beverage Control Board | 5,000 |
| Commissioner of local government | 100,000 |

➔Section 63. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.

- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9)
 - (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
 - 1. His or her inability to pay in full; and
 - 2. That the agreement will facilitate collection by the department of the amounts owed.
 - (b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:
 - 1. The taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement;
 - 2. The taxpayers' financial condition has sufficiently changed;
 - 3. The taxpayer fails to provide any requested financial condition update information;
 - 4. The taxpayer gave false or misleading information in securing the agreement; or
 - 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
 - (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the **Kentucky Claims Commission**~~Board of Claims~~ for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the **commission**~~board~~ shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the **commission**~~board~~, the department shall be reimbursed by the taxpayer for its costs in defending the action. ***Any claims brought pursuant to this subsection shall be in accordance with Sections 4 to 18 of this Act.***

- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 64. KRS 131.110 is amended to read as follows:

- (1) The Department of Revenue shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under **Section 22 of this Act**~~[KRS 131.340]~~. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky **Claims Commission**~~[Board of Tax Appeals]~~.
- (4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky **Claims Commission**~~[Board of Tax Appeals]~~ pursuant to the provisions of **Section 22 of this Act**~~[KRS 131.340]~~.

➔Section 65. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).
- (3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars (\$25).
- (4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not

filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

- (5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- (6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- (7) If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- (8) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- (9) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.
- (10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- (11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky *Claims Commission* ~~Board of Tax Appeals~~ or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- (12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- (13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 66. KRS 131.622 is amended to read as follows:

- (1) (a) The following shall be contraband and subject to seizure and destruction:
 1. Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612; or
 2. Any cigarettes in the possession of a retailer from a tobacco product manufacturer or brand family that has been removed from the directory.
- (b) Whenever any peace officer of this state, or any representative of the department, finds any contraband cigarettes, the cigarettes shall be immediately seized and stored in a depository to be selected by the officer or representative.
- (c) The seized cigarettes shall be held for a period of twenty (20) days to allow the owner or any person having an interest in the cigarettes to protest the seizure.
- (d) At the time of seizure, the officer or representative shall:
 1. Notify the department of the nature and quantity of the cigarettes seized; and

2. Deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face the date of seizure, and a notice that the cigarettes shall be destroyed if the seizure is not protested in writing to the Department of Revenue, Frankfort, Kentucky, within twenty (20) days from the seizure.
 - (e) The owner or any person having an interest in the seized cigarettes may appeal to the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ a final determination made by the department pursuant to *Section 22 of this Act*~~[KRS 131.340]~~.
 - (f) If the owner or any person having an interest in the seized cigarettes fails to protest the seizure before the end of the twenty (20) day holding period, the department shall destroy the seized cigarettes.
 - (2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and attorneys' fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.
 - (3) No stamping agent, distributor, retailer, or any other person shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent, distributor, retailer, or person knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.
 - (4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state if in possession of proof that the cigarettes are intended for sale in another state.
 - (5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any administrative regulation promulgated pursuant to KRS 131.600 to 131.630, the commissioner may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.600 to 131.630.
- ➔Section 67. KRS 131.990 is amended to read as follows:
- (1) ~~[Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty five dollars (\$25) nor more than five hundred dollars (\$500).~~
 - ~~(2)~~ (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
 - (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
 - (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
 - ~~(2)~~~~(3)~~ Any person who willfully fails to comply with the rules and regulations promulgated by the department for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
 - ~~(3)~~~~(4)~~ Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

- ~~(4)(5)~~ Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- ~~(5)(6)~~ (a) Any person or financial institution that fails to comply with the provisions of KRS 131.672 and 131.674 within ninety (90) days after notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.
- (b) Any financial institution that fails or refuses to comply with the provisions of KRS 131.672 and 131.674 within one hundred twenty (120) days after the notification by the department shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the department, the commissioner of the Department of Financial Institutions shall, as applicable, revoke the authority of the financial institution or its agents to do business in the Commonwealth.
- ~~(6)(7)~~ Any taxpayer or tax return preparer who fails or refuses to comply with the provisions of KRS 131.250 or an administrative regulation promulgated under KRS 131.250 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each return not filed as required.

➔Section 68. KRS 132.310 is amended to read as follows:

- (1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Department of Revenue, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Department of Revenue shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.
- (2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the Department of Revenue may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.
- (3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ as provided by *subsection (2) of Section 22 of this Act*~~[KRS 131.340(2)]~~.
- (4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

➔Section 69. KRS 132.360 is amended to read as follows:

- (1) Any assessment of tangible personal property listed with the property valuation administrator or with the Department of Revenue as provided by KRS 132.220 may be reopened by the Department of Revenue within five (5) years after the due date of the return, unless the assessed value has been established by a court of competent jurisdiction. If upon reopening the assessment the department finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the department and offer evidence to show that no increase should be made. After the department has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and *Section 22 of this Act*~~[131.340]~~.

- (2) Upon such assessment becoming final, the department shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

➔Section 70. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky *Claims Commission pursuant to Sections 20 to 25 of this Act*~~[Board of Tax Appeals]~~ relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the Department of Revenue directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

➔Section 71. KRS 132.620 is amended to read as follows:

- (1) The Department of Revenue shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky *Claims Commission pursuant to Sections 20 to 25 of this Act*~~[Board of Tax Appeals]~~, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The Department of Revenue shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~, and an appeal may be taken from the final action of the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ to the courts as provided by law.
- (2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

➔Section 72. KRS 133.120 is amended to read as follows:

- (1) (a) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his or her designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045.
- (b) 1. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be:
 - a. An attorney;
 - b. A certified public accountant;
 - c. A certified real estate broker;
 - d. A Kentucky licensed real estate broker;
 - e. An employee of the property owner;
 - f. A licensed or certified Kentucky real estate appraiser;
 - g. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
 - h. Any other individual possessing a professional appraisal designation recognized by the department.
2. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or

she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

- (c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.
 - (d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.
 - (e) At the request of the taxpayer, the conference may be held by telephone.
- (2) (a) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals.
- (b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the taxpayer's opinion of the fair cash value of the property.
- (c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045.
- (d) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.
- (e) The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he or she so desires, in protest of an increase.
- (f) Any real property owner who has listed his or her property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he or she believes to be assessed at less than fair cash value, if he or she specifies in writing the individual properties for which the review is sought and factual information upon which his or her request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045.
- (g) Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.
- (3) (a) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value.
- (b) The department may be present at the hearing and present any pertinent evidence as it pertains to the appeal.
- (c) The taxpayer shall provide factual evidence to support his or her appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the department, or any member of the board, his or her appeal shall be denied.
- (d) This information shall include but not be limited to the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages.

- (e) The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his or her designated deputy and the taxpayer or his or her authorized representative.
- (4) (a) Any person receiving compensation to represent a property owner in an appeal before the board shall be:
 - 1. An attorney;
 - 2. A certified public accountant;
 - 3. A certified real estate broker;
 - 4. A Kentucky licensed real estate broker;
 - 5. An employee of the taxpayer;
 - 6. A licensed or certified Kentucky real estate appraiser;
 - 7. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
 - 8. Any other individual possessing a professional appraisal designation recognized by the department.
- (b) A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the department.
- (6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he or she so desires, in protest of the action of the property valuation administrator.
- (7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.
- (8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.
- (9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he or she claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky ***Claims Commission pursuant to Section 22 of this Act***~~[Board of Tax Appeals]~~. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and department, may appeal the decision to the Kentucky ***Claims Commission pursuant to Section 22 of this Act***~~[Board of Tax Appeals]~~. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky ***Claims Commission***~~[Board of Tax Appeals]~~.
- (11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county,~~[he or she]~~ the fiscal court shall arrange for substitute representation.

- (12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the department's recording as provided in KRS 61.874.
- (13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

➔Section 73. KRS 133.170 is amended to read as follows:

- (1) When the Department of Revenue has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.
- (2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky **Claims Commission pursuant to Section 22 of this Act**~~[Board of Tax Appeals]~~ within ten (10) days from the date of the certification.
- (3) Within ten (10) days from the date that the department's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky **Claims Commission pursuant to Sections 20 to 25 of this Act**~~[Board of Tax Appeals]~~ or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the department's action.
- (4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the Department of Revenue and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.
- (5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.
- (6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the Department of Revenue and to the other taxing districts participating in the tax.
- (7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky **Claims Commission**~~[Board of Tax Appeals]~~ as provided in **Section 22 of this Act**~~[KRS 131.340]~~, and appeals thereafter may be taken to the courts as provided in **Section 25 of this Act**~~[KRS 131.370]~~.
- (8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the Department of Revenue under the provisions of KRS 133.150.

➔Section 74. KRS 133.215 is amended to read as follows:

The sheriff shall be entitled to the fee prescribed by KRS 64.090 for serving a subpoena for the board of assessment appeals. He shall also have a like fee for serving a subpoena or notice for the Kentucky **Claims Commission**~~[Board of Tax Appeals]~~ regarding any proceeding for the assessment of property subject to local taxation. Said fees shall be paid out of the county levy.

➔Section 75. KRS 134.551 is amended to read as follows:

- (1) If a certificate of delinquency or personal property certificate of delinquency held by an individual is declared void by a court of competent jurisdiction because of the irregularity of taxing officers, the amount for which the certificate was issued shall be refunded by the state, county, and taxing districts on a pro rata basis. If a school district or county is unable to make the refund currently when requested, it shall be given preference from the next year's revenue. The application for refund must be made within one (1) year after the judgment. The property covered by the void certificate shall be assessed immediately as omitted property and the tax bill shall be payable as soon as prepared.
- (2) (a) If a certificate of delinquency held by a third-party purchaser who paid the certificate of delinquency to the county clerk:
 1. Is unenforceable because:
 - a. It is a duplicate certificate of delinquency;
 - b. The tax liability represented by the certificate of delinquency was satisfied prior to the purchase of the certificate of delinquency;
 - c. All or a portion of the certificate of delinquency is exonerated; or
 - d. The property to which the certificate of delinquency applies was not subject to taxes as a matter of law as certified by the property valuation administrator; or
 2. Should not have been sold because, on the date of the annual sale, the certificate of delinquency met the requirements for inclusion on the protected list pursuant to KRS 134.504(10) and it:
 - a. Was included on the protected list;
 - b. Was mistakenly left off the protected list; or
 - c. Became eligible for inclusion on the protected list between the date the protected list was submitted and the date of sale;the third-party purchaser may apply to the county clerk for a refund.
- (b) The application for refund filed with the county clerk shall include written proof that one (1) of the situations described in paragraph (a) of this subsection exists with regard to the certificate of delinquency for which a refund is sought.
- (c)
 1. Upon acceptance and approval of the application for refund, the county clerk shall approve a refund of the amount paid to the county clerk by the third-party purchaser in satisfaction of the certificate of delinquency. The refunded amount shall not include any filing fees paid by the third-party purchaser to the county clerk.
 2. Amounts refunded to the third-party purchaser shall be deducted from amounts in the hands of the county clerk due to the state, county, taxing districts, sheriff, county attorney, and the county clerk on a pro rata basis, if the county clerk has sufficient funds in his or her hands to make the refund.
 3. If the county clerk does not have sufficient funds to make the refund at the time the refund is approved, the county clerk may either:
 - a. Retain the approved refund claim in his or her office and make the refund payment as soon as he or she has sufficient funds in his or her hands to make the refund payment; or
 - b. Provide a signed letter to the person to whom payment is due, which includes the amount due from each taxing jurisdiction or fee office, and which directs each taxing jurisdiction or fee official to pay to the person the amount due and owing from that taxing jurisdiction or fee official as reflected in the letter.
 4. Upon the making of a refund to a third-party purchaser, the county clerk shall issue and file a release of the lien on the property assessed for taxes as provided in this subparagraph without charge to the third-party purchaser. The release shall be linked to the encumbrance in the county clerk's indexing system.
 - a. The department shall prepare a release form to be used by the county clerk when a refund is paid under this paragraph. The form shall include, at a minimum, the following:
 - i. The name and address of the taxpayer;

- ii. The name and address of the third-party purchaser;
 - iii. The book and page number of the third-party purchaser's lis pendens filing;
 - iv. The property address;
 - v. The applicable tax year; and
 - vi. The map identification number or tax bill number.
- b. The release form shall be signed by the government official responsible for making the correction.
 - c. In addition to the signed release form, information filed by the county clerk shall include a copy of the documentation provided by the government official and a copy of the refund check or letter of refund authorization issued to the third-party purchaser. The county clerk shall record and file this information without a fee.
 - d. The county clerk shall also make any necessary corrections to the tax records within the office of the county clerk.
 - e. The county clerk shall return the release document to the taxpayer and shall provide a copy of the release document to the third-party purchaser.
- (d) If the county clerk denies the application for refund, or the property valuation administrator fails to certify that property was not subject to taxes as a matter of law, the third-party purchaser may appeal the decision of the county clerk or the property valuation administrator to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals]~~.

➔Section 76. KRS 134.580 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited.
 - (b) "Overpayment" or "payment where no tax was due" means the excess of the tax payments made over the correct tax liability determined under the terms of the applicable statute without reference to the constitutionality of the statute.
- (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by *Section 22 of this Act* ~~KRS 131.340~~ and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ or courts may direct.
- (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and *Section 22 of this Act* ~~[131.340]~~.
- (4) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
- (5) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

- (6) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
- (7) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.
- (8) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.
- (9) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
 - (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose.
 - (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn.
 - (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
 - (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.
 - (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 77. KRS 134.590 is amended to read as follows:

- (1) When the appropriate state government agency determines that a taxpayer has paid ad valorem taxes into the state treasury when no taxes were due or has paid under a statute held unconstitutional, the state government agency which administers the tax shall refund the money, or cause it to be refunded, to the person who paid the tax. The state government agency shall not authorize a refund to a person who has paid the tax due on any tract of land unless the taxpayer has paid the entire tax due the state on the land.
- (2) No state government agency shall authorize a refund unless each taxpayer individually applies for a refund within two (2) years from the date the taxpayer paid the tax. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and **Section 22 of this Act**~~[131.340]~~. No state government agency shall refund ad valorem taxes, except those held unconstitutional, unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.
- (3) If a taxpayer pays city, urban-county, county, school district, consolidated local government, or special district ad valorem taxes to a city, urban-county, county, school district, consolidated local government, or special district when no taxes were due or the amount paid exceeded the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax.

- (4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city, consolidated local government, or urban-county government for the city, consolidated local government, or urban-county government or for any special district for which the city, consolidated local government, or urban-county government is the levying authority, by the county judge/executive of any county for the county or special district for which the fiscal court is the levying authority, or by the chairman or finance officer of any district board of education.
- (5) Upon proper authorization, the sheriff or collector shall refund the taxes from current tax collections he or she holds. If there are no such funds, the district's finance officer shall make the refunds. The sheriff or collector shall receive credit on the next collection report to the district for any refunds the sheriff or collector makes.
- (6) No refund shall be made unless each taxpayer individually applies within two (2) years from the date payment was made. If the amount of taxes due is in litigation, the taxpayer shall individually apply for refund within two (2) years from the date the amount due is finally determined. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, the correction provisions of KRS 133.110 and 133.130, or other administrative remedy procedures.
- (7) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, a taxing district may recover any loss of ad valorem tax revenue it suffers due to the issuance of refunds by adjusting the following tax year's tax rate.

➔Section 78. KRS 136.050 is amended to read as follows:

- (1) Except where otherwise specially provided, all corporations required to make reports to the Department of Revenue shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.
- (2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky ~~Claims Commission~~ **Board of Tax Appeals** acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

➔Section 79. KRS 136.658 is amended to read as follows:

- (1) The Local Distribution Fund Oversight Committee is hereby created and administratively attached to and staffed by the department. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state government officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association, the Kentucky Superintendents Association, and the Kentucky School Administrators Association from which the Governor shall select one (1) member each. One (1) member shall be appointed by the Governor to represent the interests of special districts other than school districts. The remaining member shall be the commissioner of the Department for Local Government, who shall serve as chairperson of the oversight committee. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.
- (2) The duties of the oversight committee shall be:
 - (a) To monitor the department's implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund and to report its findings to the commissioner of the department; and

- (b) To act as a finder of fact for the commissioner of the department in disputes in and between political subdivisions, school districts, special districts, and sheriff departments, and between political subdivisions, school districts, special districts, and sheriff departments, and the department regarding the implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund.
- (3) The department shall provide the oversight committee with an annual report reflecting the amounts distributed to each participating political subdivision, school district, special district, or sheriff department.
- (4) Any political subdivision, school district, special district, or sheriff department may file a complaint and request a hearing with the oversight committee on a form prescribed by the committee. The oversight committee shall give notice to any political subdivision, school district, special district, or sheriff department that may be affected by the complaint. Any political subdivision, school district, special district, or sheriff department intending to respond to the complaint shall do so in writing within thirty (30) days of notice of the complaint.
- (5) In conducting its business:
 - (a) The oversight committee shall give due notice of the times and places of its hearings;
 - (b) The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses;
 - (c) The oversight committee shall act by majority vote;
 - (d) The oversight committee shall adopt and publish rules of procedure and practice regarding its hearings; and
 - (e) The oversight committee shall make written findings and recommendations to the commissioner of the department.
- (6) The commissioner of the department shall review the findings and recommendations of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.
- (7) The parties in the dispute shall have the rights and duties to appeal any final ruling to the Kentucky *Claims Commission* ~~[Board of Tax Appeals]~~ under *Section 22 of this Act* ~~[KRS 131.340]~~.
- (8) Nothing contained in this section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

➔Section 80. KRS 137.160 is amended to read as follows:

- (1) When the Department of Revenue has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.
- (2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the department as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The department, in making its assessments, shall take into consideration transportation charges.
- (3) The department shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[board of tax appeals]~~.

➔Section 81. KRS 138.132 is amended to read as follows:

- (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2)
 - (a) If a retailer, who is not a licensed retail distributor, purchases tobacco products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the excise tax required by KRS 138.140(4)(d)3., the retailer shall, within twenty-four (24) hours, notify the department in writing.
 - (b) The notification shall include the name and address of the person from whom the tobacco products were purchased and a copy of the purchase invoice.
 - (c) The tobacco products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.
 - (d) After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products.
- (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products for resale from a person not licensed under KRS 138.195(7), which is prohibited by KRS 138.140(4)(c), the retailer may not sell those tobacco products until the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b).
- (4) If, upon examination, the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:
 - (a) For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;
 - (b) For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and
 - (c) For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.
- (5)
 - (a) Whenever a representative of the department finds contraband tobacco products within the borders of this state, the tobacco products shall be immediately seized and stored in a depository to be determined by the representative.
 - (b) At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
 - (c) Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products seized. Any seized tobacco products shall be held for a period of twenty (20) days, and if after that period no person has claimed the tobacco products as his or her property, the commissioner shall cause the tobacco products to be destroyed.
- (6) All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:
 - (a) The department's representative shall seize the property and store the property in a safe place selected by the representative; and
 - (b) The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).
- (7) The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.

- (8) Any party aggrieved by an order entered under this section may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals in the manner provided by law~~.

➔Section 82. KRS 138.165 is amended to read as follows:

- (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2) Whenever any peace officer of this state, or any representative of the department, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the commissioner of the Department of Revenue of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.
- (3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.
- (4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall thereafter proceed as provided in subsection (2) of this section and the commissioner of the Department of Revenue shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.
- (5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the Department of Revenue for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the Department of Revenue that the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the Department of Revenue shall remit the forfeiture. If the Department of Revenue determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the Department of Revenue may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the Department of Revenue of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.
- (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals in the manner provided by law~~.

➔Section 83. KRS 138.195 is amended to read as follows:

- (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.
- (b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.

- (c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:
1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or
 2. A crime involving fraud, falsification of records, improper business transactions or reporting;
- for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.
- (2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars (\$25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by administrative regulation the manner in which the information shall be affixed to the vending machine.
- (5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured.
- (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured.
2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
 - b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year or portion thereof for which the license is secured.
3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured, and the licensee shall be subject

to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.

- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year or portion thereof for which the license is secured.
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.
- (9)
 - (a) The department may by administrative regulation require any person requesting a license or holding a license under this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state.
 - (b) Failure on the part of the applicant or licensee to comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder, or to permit an inspection of premises, machines, or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the denial or revocation of any license issued by the department, after due notice and a hearing by the department.
 - (c) The commissioner may assign a time and place for the hearing and may appoint a conferee who shall conduct a hearing, receive evidence, and hear arguments.
 - (d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the denial or revocation of the license.
 - (e) From any denial or revocation made by the commissioner on the report, the licensee may prosecute an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided by law~~.
 - (f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.
- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- (12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13)
 - (a) Licensed distributors of tobacco products shall pay and report the tax levied by KRS 138.140(4)(a) on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products are transferred from the licensed distributor to retailers or consumers in this state, as the case may be.
 - (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the tax levied by KRS 138.140(4)(c)2. on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.
 - (c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.

- (d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (14) A tax return shall be filed for each reporting period whether or not tax is due.
- (15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.
- (16) (a) The department may deny the issuance of a license under this section if:
 - 1. The applicant has made any material false statement on the application for the license; or
 - 2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, or 248.756 or any administrative regulations promulgated thereunder.
- (b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.

➔Section 84. KRS 138.340 is amended to read as follows:

- (1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210, or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the Department of Revenue. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the Department of Revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided by law~~, subject to the condition that the licensee has made bond sufficient in the opinion of the Department of Revenue to protect the Commonwealth from loss of revenue.
- (2) The department may cancel the license:
 - (a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or
 - (b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

➔Section 85. KRS 138.354 is amended to read as follows:

- (1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.
- (2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the Department of Revenue subject to appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided by law~~, and may not be reissued until two (2) years have elapsed from the date of such revocation.
- (3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the Department of Revenue for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals~~.
- (4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the Department of Revenue for a period of not more than two (2) years subject to appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals~~. No refund shall be

made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

➔Section 86. KRS 138.355 is amended to read as follows:

If the department reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the department to show cause at a public hearing before the Department of Revenue why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals as provided by law]~~, subject to the condition that he make bond sufficient in the opinion of the department to protect the Commonwealth from loss of revenue.

➔Section 87. KRS 138.729 is amended to read as follows:

Any final ruling of the Department of Vehicle Regulation with regard to the administration of KRS 138.655 to 138.725 shall be appealed to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals]~~.

➔Section 88. KRS 143.060 is amended to read as follows:

- (1) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.
- (2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (3) Any final ruling, order or determination of the department with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and *Sections 20 to 25 of this Act* ~~[131.340 to 131.370]~~.
- (4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the department within six (6) years from the date the return was filed.

➔Section 89. KRS 150.645 is amended to read as follows:

- (1) An owner, lessee or occupant of premises who gives permission to another person to hunt, fish, trap, camp or hike upon the premises shall owe no duty to keep the premises safe for entry or use by the person or to give warning of any hazardous conditions on the premises, and the owner, lessee, or occupant, by giving his permission, does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed. The owner, lessee, or occupant giving permission for any of the purposes stated above shall not be liable for any injury to any person or property caused by the negligent acts of any person to whom permission is granted. This section shall not limit the liability which would otherwise exist for willful and malicious failure to guard or to warn against a dangerous condition, use, structure, or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, or hike was granted for a consideration other than the consideration, if any, as set forth in KRS 411.190(1)(d), paid to said owner, lessee, or occupant by the state. The word "premises" as used in this section includes lands, private ways, and any buildings and structures thereon. Nothing in this section limits in any way any liability which otherwise exists.
- (2) Department employees who participate in bona fide wildlife management practices are agents of the department and state and, in the event property damage does occur, a claim for property damages may only be brought in the *Kentucky Claims Commission* ~~[Board of Claims]~~ pursuant to *Sections 4 to 18 of this Act* ~~[KRS 44.070]~~.

➔Section 90. KRS 153.180 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.
- (2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management established in KRS 42.0201 consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:
 - (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.
 - (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.
- (3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of *Section 4 of this Act* [~~KRS 44.070~~] and 45.101 for actual and necessary expenses incurred in the performance of their duties.
- (4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.
- (5) The foundation shall be attached to the Office of the Secretary of the Tourism, Arts and Heritage Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.
- (6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

➔Section 91. KRS 186.070 is amended to read as follows:

- (1)
 - (a) Every manufacturer of, or dealer in, motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office, sub-agent, or agency is located, and pay an annual registration fee of twenty-five dollars (\$25) to each clerk.
 - (b) Upon receipt of the twenty-five dollar (\$25) fee, the clerk shall issue the manufacturer or dealer a certificate of registration and one (1) dealer plate. Every manufacturer or dealer registered under this section shall be furnished additional dealer's plates upon the payment of fourteen dollars and fifty cents (\$14.50) for each additional plate requested. Three dollars (\$3) shall be retained by the clerk for each additional plate issued.
 - (c) A motor vehicle bearing dealer's plates may be used on the highways only by the following people:
 1. A licensed dealer, bona fide salesman, or employee of the dealer;
 2. A manufacturer or dealer licensed pursuant to the laws of this state transporting a motor vehicle to his place of retail business from a manufacturer or wholesale dealer in motor vehicles; and
 3. A bona fide customer of a licensed dealer, or the customer's employees when a motor vehicle is being demonstrated. This provision shall be limited to one (1) trip or demonstration to the same prospective customer.
 - (d) License plates issued under this section shall annually expire on December 31.

- (e) As used in this section, "bona fide salesman or employee" means a licensed salesman, or an employee, who is actively engaged in and devotes a substantial part of his time to the conduct of the dealer business.
 - (f) A vehicle bearing a dealer plate, except when the vehicle is being transported to a dealer's place of business from a manufacturer, shall have, in the case of a new motor vehicle, a "monroney" sticker attached to the vehicle, or, in the case of a used motor vehicle, a Federal Trade Commission buyer's guide sticker attached to the vehicle.
- (2) (a) Each manufacturer and dealer when making application for dealer's plates shall file a verified statement on at least a quarterly basis with the county clerk, giving the name, address, and Social Security number of each dealer, and each bona fide salesman or employee entitled to the use of the plates for demonstration purposes only. When any bona fide registered salesman or employee is no longer employed by the manufacturer or dealer, the manufacturer or dealer shall file an amended verified statement with the clerk stating that fact, and when any additional salesmen or employees are employed, an amended verified statement showing their names and addresses shall be filed with the clerk so that the records in the clerk's office will at all times show the bona fide salesmen and employees actually in the service of the registered dealer or manufacturer;
- (b) The names of each dealer and each bona fide salesman and employee shall be entered by the clerk into the AVIS where it will be readily available to law enforcement agencies. The information shall be entered by the clerk immediately after each quarterly filing of the verified statement by the dealer;
- (c) Any person who is hired as a driver by a motor vehicle dealer for the limited, specific purpose of transporting a motor vehicle to or from that dealer's place of business may, for that purpose only, operate a motor vehicle bearing a dealer plate. For the purpose of that operation, the dealer shall provide to that driver a permit, provided by the Transportation Cabinet. The permit shall be valid for five (5) days from the date of issuance. A fee shall not be charged for the permit.
- (3) The license of any dealer or manufacturer may be revoked by the Transportation Cabinet for the violation of any of the provisions of this section. The manufacturer or dealer shall be given an opportunity to be heard in defense of the charge that he has violated any of the provisions of this section, and the Transportation Cabinet shall promulgate administrative regulations governing the revocation procedure. A manufacturer or dealer whose license is revoked may appeal the revocation to the Kentucky ***Claims Commission pursuant to Section 22 of this Act*** ~~Board of Tax Appeals as provided by law~~. The manufacturer or dealer whose license has been suspended shall be prohibited from engaging in the business of selling or buying motor vehicles. The license of any manufacturer or dealer shall be revoked for a period of one (1) year and his dealer's plates canceled if he violates any of the provisions of this section during this suspension period or has been suspended by the cabinet more than twice for violations of this section. At the end of the revocation or suspension period the manufacturer or dealer whose license has been revoked or suspended and dealer's plates canceled may follow the provisions of this section and again be registered and secure dealer's plates from the clerk.
- (4) The Transportation Cabinet shall be responsible for the issuance and cancellation of the plates provided for in this section, and the motor vehicle commission shall be responsible for the enforcement of this section, except for the normal responsibilities of law enforcement agencies. The cabinet may promulgate administrative regulations pertaining to the administration of this section.

➔Section 92. KRS 186.574 is amended to read as follows:

- (1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).
- (2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court. The Transportation Cabinet shall not assess points against a person who satisfactorily completes state traffic school. However, if

the person referred to state traffic school holds or is required to hold a commercial driver's license, the underlying offense shall appear on the person's driving history record.

- (3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.
- (4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars (\$15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.
- (5) The following procedures shall govern persons attending state traffic school pursuant to this section:
 - (a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;
 - (b) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;
 - (c) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;
 - (d) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and
 - (e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.
- (6)
 - (a) Except as provided in paragraph (b) of this subsection, a county attorney may operate a traffic safety program for traffic offenders prior to the adjudication of the offense.
 - (b) Offenders alleged to have violated KRS 189A.010 or 304.39-080, offenders holding a commercial driver's license under KRS Chapter 281A, or offenders coming within the provisions of subsection (5)(b) or (c) of this section shall be excluded from participation in a county attorney-operated program.
 - (c) A county attorney that operates a traffic safety program:
 - 1. May charge a reasonable fee to program participants, which shall only be used for payment of county attorney office operating expenses; and
 - 2. Shall, by October 1 of each year, report to the Prosecutors Advisory Council the fee charged for the county attorney-operated traffic safety program and the total number of traffic offenders diverted into the county attorney-operated traffic safety program for the preceding fiscal year categorized by traffic offense.
 - (d) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney, pay a twenty-five dollar (\$25) fee to the court clerk, which shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries.
 - (e) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney and the fee required by paragraph (d) of this subsection, pay a thirty

dollar (\$30) fee to the county attorney in lieu of court costs. On a monthly basis, the county attorney shall forward the fees collected pursuant to this paragraph to the Finance and Administration Cabinet to be distributed as follows:

1. Ten and eight-tenths percent (10.8%) to the spinal cord and head injury research trust fund created in KRS 211.504;
2. Nine and one-tenth percent (9.1%) to the traumatic brain injury trust fund created in KRS 211.476;
3. Five and eight-tenths percent (5.8%) to the special trust and agency account set forth in KRS 42.320(2)(f) for the Department of Public Advocacy;
4. Five and seven-tenths percent (5.7%) to the crime victims compensation fund created in **Section 48 of this Act**~~[KRS 346.185]~~;
5. One and two-tenths percent (1.2%) to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
6. Sixteen and eight-tenths percent (16.8%) to the county sheriff in the county from which the fee was received;
7. Nine and one-tenth percent (9.1%) to the county treasurer in the county from which the fee was received to be used by the fiscal court for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners;
8. Thirty-three and two-tenths percent (33.2%) to local governments in accordance with the formula set forth in KRS 24A.176(5); and
9. Eight and three-tenths percent (8.3%) to the Cabinet for Health and Family Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

➔Section 93. KRS 196.701 is amended to read as follows:

- (1) To develop and implement a statewide strategic plan for the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the Office of the Secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-three (23) members as follows:
 - (a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (b) The commissioner of the Department of Corrections or his or her designee in writing;
 - (c) The deputy commissioner of the Office of Community Services and Facilities;
 - (d) The deputy commissioner of the Office of Adult Institutions;
 - (e) The director of the Division of Parole and Victim Services or his or her designee in writing;
 - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (g) Two (2) Circuit Court Judges appointed by the Chief Justice;
 - (h) A county judge/executive appointed by the Governor;
 - (i) A county jailer appointed by the Governor;
 - (j) A Commonwealth's attorney appointed by the Governor;
 - (k) A practicing attorney appointed by the Governor;
 - (l) A victim, as that term is defined in **Section 28 of this Act**~~[KRS 346.020]~~, appointed by the Governor;
 - (m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training, appointed by the Governor;
 - (n) A public member who is qualified to express the views of organized labor, appointed by the Governor;
 - (o) A public member who is qualified to express the views of business and industry, appointed by the Governor;

- (p) The public advocate or his or her designee in writing; and
 - (q) Three (3) at-large members appointed by the Governor.
- (2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. The appointed members may be removed for cause. All others serve during their terms of office. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.
 - (3) The chairperson of the commission shall be the secretary of justice and public safety. The commissioner of the Department of Corrections shall serve as the vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.
 - (4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.
 - (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. All public members of the commission shall, in addition to expenses, receive twenty-five dollars (\$25) per day for attending each meeting.

➔Section 94. KRS 211.392 is amended to read as follows:

- (1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Department of Revenue in the manner and form prescribed by the Department of Revenue and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Department of Revenue for the proper administration of this section. If the Department of Revenue finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the Department of Revenue shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or
 - (c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.
- (6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky ***Claims Commission pursuant to Section 22 of this Act***~~[Board of Tax Appeals as provided in KRS 131.340]~~.
- (7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the

facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Department of Revenue.

- (8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the Department of Revenue.
- (9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 95. KRS 224.1-310 is amended to read as follows:

- (1) Application for a pollution control tax exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the Department of Revenue for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as a pollution control facility as defined in KRS 224.1-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.
- (2) Before issuing a pollution control tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke such certificate whenever any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.
- (3) Provided, however, that where the circumstances so require, the Department of Revenue in lieu of revoking such certificate may modify the same.
- (4) On the mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~[Board of Tax Appeals as provided in KRS 131.340]~~.
- (7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate,

whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the Department of Revenue.

- (8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the Department of Revenue.

➔Section 96. KRS 234.350 is amended to read as follows:

- (1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the department may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.
- (2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the department his license.
- (3) If upon investigation the department ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the department may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the department.
- (4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license.
- (5) If the department takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~Board of Tax Appeals~~ where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.
- (6) If the license is canceled by the department as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the department shall cancel the bond filed by the licensee.

➔Section 97. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Department for Energy Development and Independence shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Department for Energy Development and Independence, and shall afford to the applicant and to the Department for Energy Development and Independence an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;

- (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
 - (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
 - (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Department for Energy Development and Independence. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Department for Energy Development and Independence. The applicant or holder and the Department for Energy Development and Independence shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
 - (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~Board of Tax Appeals as provided in KRS 131.340~~.
 - (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Department for Energy Development and Independence and the Department of Revenue.
 - (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Department for Energy Development and Independence and to the Department of Revenue.
 - (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 98. KRS 365.241 is amended to read as follows:

- (1) As used in this section:
 - (a) "Counterfeit mark" means:
 - 1. Any unauthorized reproduction or copy of intellectual property; or
 - 2. Intellectual property knowingly affixed to any item without the authority of the owner of the intellectual property.
 - (b) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the person's goods or services.
 - (c) "Person" includes, in addition to its meaning under KRS 446.010, any association, organization, or entity amenable to suit in a court of law.
 - (d) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

- (2) Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item or service that the person knows bears or is identified by a counterfeit mark shall be guilty of counterfeiting.
- (3) A person having possession, custody, or control of more than twenty-five (25) items that the person knows bear or are identified by a counterfeit mark shall be presumed to possess the items with the intent to sell or distribute.
- (4) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor, except where the person has been previously convicted of a violation of this section or the violation involves more than one hundred (100) items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars (\$1,000), in which case the person shall be guilty of a Class D felony. Unless reduced by the court for extenuating circumstances and notwithstanding KRS Chapter 534, upon conviction the offender shall, in addition to any other allowable disposition, be fined an amount equal to the greater of:
 - (a) Three (3) times the retail value of the items bearing, or services identified by, the counterfeit mark;
 - (b) Double the amount of the defendant's gain from commission of the offense; or
 - (c) As otherwise allowed in KRS Chapter 534 for felonies and misdemeanors.
- (5) For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses.
- (6) Except for items in the possession of a person not in violation of this section, any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer.
 - (a) Except as otherwise provided in this subsection, all personal property seized under this subsection shall be forfeited in accordance with KRS 431.100.
 - (b) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner.
 - (c) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, the items shall be destroyed unless the intellectual property owner consents to another disposition.
- (7) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated in the certificate.
- (8) The remedies provided in this section shall be cumulative to other civil and criminal remedies provided by law.
- (9) Notwithstanding any statute to the contrary, fines imposed under this section shall be paid into the crime victims' compensation fund established in **Section 48 of this Act** ~~[KRS 346.185]~~.

➔Section 99. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, **Kentucky Claims Commission** ~~Board of Claims~~, Special Fund, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;
 - (b) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, **Kentucky Claims Commission** ~~Board of Claims~~, or any agent thereof, any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;

- (c) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - (d) Knowingly and with intent to defraud or deceive, receives money for the purpose of purchasing insurance, and fails to obtain insurance;
 - (e) Knowingly and with intent to defraud or deceive, fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 - (f) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
 - (g) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
 - (h) Engages in unauthorized insurance, as defined in KRS 304.11-030;
 - (i) Knowingly and with intent to defraud or deceive, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
 - 1. The rating of an insurance policy;
 - 2. The financial condition of an insurer;
 - 3. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
 - 4. A document filed with the commissioner;
 - (j) Knowingly and with intent to defraud or deceive, engages in any of the following:
 - 1. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
 - 2. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer; or
 - (k) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) (a) Except as provided in paragraphs (b) and (c) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to five hundred dollars (\$500), and shall be punished by:
- 1. Imprisonment for not more than one (1) year;
 - 2. A fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 - 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (b) Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of five hundred dollars (\$500), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:
- 1. Imprisonment for not less than one (1) nor more than five (5) years;
 - 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 - 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (c) Any person, with the purpose to establish or maintain a criminal syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1), shall be guilty of engaging in organized crime, a Class B felony, and shall be punished by:

1. Imprisonment for not less than ten (10) years nor more than twenty (20) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
 3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (d) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a), (b), or (c) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (3) Any person damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
 - (4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

➔Section 100. KRS 342.1231 is amended to read as follows:

- (1) The funding commission may mail to the taxpayer a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the funding commission. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the funding commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the funding commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act* ~~{Board of Tax Appeals}~~.
- (4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the funding commission shall issue such ruling within thirty (30) days from the date the request is received by the funding commission.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky *Claims Commission* ~~{Board of Tax Appeals}~~ pursuant to *Section 22 of this Act* ~~{the provisions of KRS 131.340}~~.
- (6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the insurance companies in accordance with administrative regulations promulgated by the funding commission.
- (7) "Taxpayer" as used in this section means insurance carrier, self-insured group, and self-insured employer.

➔Section 101. KRS 365.370 is amended to read as follows:

- (1) The department shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the department, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.
- (2) The department may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the department promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

- (3) All of the powers vested in the commissioner and Department of Revenue by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.
- (4) Any person aggrieved by any decision, order, or finding of the Department of Revenue, suspending or revoking any license, may appeal to the Kentucky *Claims Commission pursuant to Section 22 of this Act*~~[Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe]~~.

➔Section 102. KRS 452.505 is amended to read as follows:

The following actions may be brought in the Franklin Circuit Court, or in the Franklin District Court, or in any other Circuit Court or District Court having venue:

- (1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are prosecuted by an appeal to the Kentucky *Claims Commission*~~[Board of Tax Appeals]~~ under the provisions of KRS 131.110 and *Section 22 of this Act*~~[KRS 131.340]~~.
- (2) Actions against persons required to collect money due the Commonwealth, to pay money into the State Treasury, or to do any other act connected with the payment of money into the State Treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.
- (3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the Treasury allowed and approved by any court in the Commonwealth to any person.
- (4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the Treasury to any person.
- (5) The defendant in any action brought in Franklin Circuit Court or Franklin District Court under the provisions of subsection (1) of this section for the collection of taxes assessed under KRS Chapter 141 shall at any time prior to the submission for judgment upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court or Franklin District Court.

➔Section 103. KRS 532.160 is amended to read as follows:

- (1) If a convicted person is unable to pay all court costs, fees, fines, and other monetary penalties at the time of sentencing, then the sentencing court may, consistent with KRS 23A.205, 24A.175, 534.020, and KRS 534.060, issue a criminal garnishment order for all fines under KRS Chapter 534 or *Section 48 of this Act*~~[KRS 346.185]~~ and for court costs, restitution, and reimbursement charges in this chapter.
- (2) A criminal garnishment applies to any of the following:
 - (a) A convicted person's earnings as defined in KRS 427.005;
 - (b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;
 - (c) Money that is held by a garnishee on behalf of a convicted person;
 - (d) The convicted person's personal property that is in the possession of a garnishee; or
 - (e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.
- (3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.
- (4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.
- (5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.
- (6) The court shall order payments made under this section to be paid by the defendant directly to the person or organization specified by written order of the court. The court shall not order payments of an order of criminal garnishment to be made through the circuit clerk, except for those payments due from a person under the supervision of the Department of Corrections.

➔Section 104. KRS 532.162 is amended to read as follows:

- (1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.
- (2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim, the **Kentucky Claims Commission**~~[Crime Victims Compensation Board]~~, or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents (\$2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.

➔Section 105. KRS 533.030 is amended to read as follows:

- (1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.
- (2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:
 - (a) Avoid injurious or vicious habits;
 - (b) Avoid persons or places of disreputable or harmful character;
 - (c) Work faithfully at suitable employment as far as possible;
 - (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
 - (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
 - (f) Support his dependents and meet other family responsibilities;
 - (g) Pay the cost of the proceeding as set by the court;
 - (h) Remain within a specified area;
 - (i) Report to the probation officer as directed;
 - (j) Permit the probation officer to visit him at his home or elsewhere;
 - (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;
 - (l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court;
 - (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of probation or conditional discharge provided for in this section; or
 - (n) During all or part of the period of probation or conditional discharge, participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517.
- (3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered

actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the **Kentucky Claims Commission**~~[Crime-Victims Compensation Board]~~, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

- (a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;
 - (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;
 - (c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and
 - (d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.
- (4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.
 - (5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.
 - (6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

➔Section 106. The following KRS sections are repealed:

- 44.075 Source of payment of expenses of Workers' Compensation Board.
- 44.080 Sessions of board -- Rules -- Subpoenas -- Oaths.
- 131.310 Kentucky Board of Tax Appeals created.
- 131.315 Members of board, appointment -- Terms -- Chairman -- Vacancies.

131.320 Qualifications of members -- Removal -- Salary -- Location of office -- Training.

131.330 Clerk of Board of Tax Appeals -- Appointment -- Qualifications.

346.030 Crime Victims Compensation Board.

➔Section 107. One (1) member of the Kentucky Claims Commission created and established in Section 1 of this Act shall be appointed for a term expiring September 30, 2017, one (1) member of the commission shall be appointed for a term expiring September 30, 2018, and one (1) member of the commission shall be appointed for a term expiring September 30, 2019.

➔Section 108. The General Assembly confirms Executive Order 2016-576, dated August 9, 2016, to the extent that it is not otherwise confirmed or superseded by this Act. All records, equipment, staff, and supporting budgets for the Board of Claims, Kentucky Board of Tax Appeals, and Crime Victims Compensation Board shall be transferred to the Kentucky Claims Commission created and established in Section 1 of this Act.

Signed by Governor March 21, 2017.

CHAPTER 75

(HB 502)

AN ACT relating to the administration of justice and declaring an emergency.

WHEREAS, in 2016 Ky. Acts ch. 134, sec. 1, the 2016-18 Judicial Branch Budget, the 2016 General Assembly appropriated funds for a new Family Court judgeship in the Sixth Judicial Circuit for fiscal years 2016-17 and 2017-18; and

WHEREAS, while the 2016-18 Judicial Branch Budget contained the language necessary to fund the additional Sixth Judicial Circuit judgeship, no corresponding revisions to the applicable portions of KRS Chapter 23A were enacted by the 2016 General Assembly; and

WHEREAS, the Family Court judgeship in the Sixth Judicial Circuit was filled in the November 2016 election as a result of the General Assembly's funding, and Family Court has been operational in Daviess County since January 3, 2017;

WHEREAS, it is critical to the administration of justice in the Commonwealth that the addition of a circuit judgeship in the Sixth Judicial Circuit be authorized in KRS 23A.045 by the 2017 General Assembly, in compliance with the funding appropriated by the 2016 General Assembly; and

WHEREAS, this Act serves to facilitate enactment of the necessary legislation with the intent that the legislation herein be applied retroactively to April 16, 2016, the effective date of the 2016-18 Judicial Branch Budget; and

WHEREAS, the Kentucky Supreme Court has certified the necessity for the new Sixth Judicial Circuit judgeship;

NOW, THEREFORE,

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

➔Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Fourth Judicial Circuit.

(2) Fifth Judicial Circuit.

(3) ~~{Sixth Judicial Circuit.~~

~~(4) — }Tenth Judicial Circuit.~~

~~(4){(5)}~~ Eleventh Judicial Circuit.

- (5){(6)} Twelfth Judicial Circuit.
- (6){(7)} Thirteenth Judicial Circuit.
- (7){(8)} Eighteenth Judicial Circuit.
- (8){(9)} Twentieth Judicial Circuit.
- (9){(10)} Twenty-first Judicial Circuit.
- (10){(11)} Twenty-fourth Judicial Circuit.
- (11){(12)} Thirty-second Judicial Circuit.
- (12){(13)} Thirty-fourth Judicial Circuit.
- (13){(14)} Thirty-seventh Judicial Circuit.
- (14){(15)} Thirty-eighth Judicial Circuit.
- (15){(16)} Thirty-ninth Judicial Circuit.
- (16){(17)} Forty-first Judicial Circuit.
- (17){(18)} Forty-second Judicial Circuit.
- (18){(19)} Forty-third Judicial Circuit.
- (19){(20)} Forty-sixth Judicial Circuit.
- (20){(21)} Forty-ninth Judicial Circuit.
- (21){(22)} Fiftieth Judicial Circuit.
- (22){(23)} Fifty-first Judicial Circuit.
- (23){(24)} Fifty-third Judicial Circuit.
- (24){(25)} Fifty-fifth Judicial Circuit.
- (25){(26)} Fifty-seventh Judicial Circuit.

➔Section 2. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

- (1) Second Judicial Circuit.
- (2) Third Judicial Circuit.
- (3) ***Sixth Judicial Circuit.***
- (4){(3)} Fourteenth Judicial Circuit.
- (5){(4)} Seventeenth Judicial Circuit.
- (6){(5)} Twenty-seventh Judicial Circuit.
- (7){(6)} Twenty-eighth Judicial Circuit.
- (8){(7)} Thirty-first Judicial Circuit.
- (9){(8)} Thirty-fifth Judicial Circuit.
- (10){(9)} Forty-eighth Judicial Circuit.
- (11){(10)} Fifty-fourth Judicial Circuit.

➔Section 3. Whereas it is critical to the ongoing operation of the Daviess County Family Court to authorize the addition of a circuit court judgeship in the Sixth Judicial Circuit, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

➔Section 4. The provisions of this Act shall apply retroactively to April 16, 2016.

Signed by Governor March 21, 2017.

CHAPTER 76**(HB 38)**

AN ACT relating to sex offender registrants.

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

➔Section 1. KRS 17.545 is amended to read as follows:

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line of the registrant's place of residence.
- (2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, ***publicly owned playground***, or licensed day care facility, except with the advance written permission of the school principal, the school board, ***the local legislative body with jurisdiction over the publicly owned playground***, or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500. ***As used in this subsection, "local legislative body" means the chief governing body of a city, county, urban-county government, consolidated local government, charter county government, or unified local government that has legislative powers.***
- (3) For purposes of this section:
 - (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and
 - (b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.
- (4) Any person who violates subsection (1) of this section shall be guilty of:
 - (a) A Class A misdemeanor for a first offense; and
 - (b) A Class D felony for the second and each subsequent offense.
- (5) Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection (4) of this section.
- (6) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

Signed by Governor March 21, 2017.

CHAPTER 77**(HB 50)**

AN ACT relating to administrative regulations.

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

➔Section 1. KRS 13A.010 is amended to read as follows:

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

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;
- (2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, and the amendment or repeal of an existing administrative regulation, but does not include:
 - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;
 - (b) Declaratory rulings;
 - (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
 - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
 - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;
- (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;
- (5) "Commission" means the Legislative Research Commission;
- (6) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- (7) "Federal mandate" means any federal constitutional, legislative, or executive law or order that requires or permits any administrative body to engage in regulatory activities that impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;
- (8) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (9) "Filed" or "promulgated" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;
- (10) ***"Last effective date" means the latter of:***
 - (a) ***The most recent date an ordinary administrative regulation became effective, without including the date a technical amendment was made pursuant to subsection (10) of Section 2 of this Act or KRS 13A.2255(2) or 13A.312; or***
 - (b) ***The date a certification letter was filed with the regulations compiler for that administrative regulation pursuant to subsection (4) of Section 5 of this Act, if the letter stated that the administrative regulation shall remain in effect without amendment.***
- (11) "Local government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;
- ~~(12)(11)~~ "Proposed administrative regulation" means an administrative regulation that:
 - (a) Has been filed by an administrative body; and
 - (b) Has not become effective or been withdrawn;
- ~~(13)(12)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

~~(14)~~~~(13)~~ "Small business" means a business entity, including its affiliates, that:

- (a) Is independently owned and operated; and
- (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or
- 2. Has gross annual sales of less than six million dollars (\$6,000,000);

~~(15)~~~~(14)~~ "Statement of consideration" means the document required by KRS 13A.280 in which the administrative body summarizes the comments received, its responses to those comments, and the action taken, if any, as a result of those comments and responses;

~~(16)~~~~(15)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee;

~~(17)~~~~(16)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities; and

~~(18)~~~~(17)~~ "Written comments" means comments submitted to the administrative body's contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United States mail, e-mail, or facsimile and may include but is not limited to comments submitted internally from within the promulgating administrative body or from another administrative body.

➔Section 2. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

- (1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;
- (2) Stamp administrative regulations tendered for filing with the time and date of receipt;
- (3) Provide administrative and support services to the subcommittee;
- (4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;
- (5) Maintain a file of ineffective administrative regulations;
- (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;
- (7) Prepare the Kentucky Administrative Regulations Service;
- (8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;
- (9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;
- (10) Change items in an administrative regulation in response to a specific written request for a technical amendment submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. Examples of technical amendments include the address of the administrative body, citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312;
- (11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, formatting, or filing requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220, 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing;
- (12) ***Maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each administrative regulation; and***
- ~~(13)~~~~(12)~~ Perform other duties required by the Commission or by a subcommittee.

➔Section 3. KRS 13A.310 is amended to read as follows:

- (1) *Except as provided in Sections 4 and 5 of this Act*, an administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.
- (2) *Except as provided in Sections 4 and 5 of this Act*, an administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.
- (3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:
 1. Is titled "Repeal of (state number of administrative regulation to be repealed)";
 2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;
 3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and
 4. Meets the filing and formatting requirements of KRS 13A.220.
- (b) 1. Except as provided in subparagraph 2. of this paragraph, on the effective date of an administrative regulation that repeals an administrative regulation, determined in accordance with KRS 13A.330 or 13A.331, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.
2. If the repealing administrative regulation specifies an effective date that is after the administrative regulation would become effective pursuant to KRS 13A.330 or 13A.331, the specified effective date shall be considered the effective date of the repealing administrative regulation. On the specified effective date, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.
- (c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.
- (4) (a) An ordinary administrative regulation may be withdrawn by the promulgating administrative body at any time prior to its adoption.
- (b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating administrative body at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330 or 13A.331 or may be withdrawn by the Governor.
- (c) If an ordinary administrative regulation is withdrawn, the administrative body or the Governor shall inform the regulations compiler of the reasons for withdrawal in writing.
- (5) Once an ordinary administrative regulation is withdrawn, it shall not be reinstated, except by repromulgation as a totally new matter.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *An ordinary administrative regulation with a last effective date on or after July 1, 2012, shall expire seven (7) years after its last effective date, except as provided by the certification process in Section 5 of this Act.*
- (2) *An ordinary administrative regulation with a last effective date before July 1, 2012 shall expire on July 1, 2019, except as provided by the certification process in Section 5 of this Act.*
- (3) *For all administrative regulations that expire under this section or Section 5 of this Act, the regulations compiler shall:*
 - (a) *Delete them from the Kentucky Administrative Regulations Service;*
 - (b) *Add them to the list of ineffective administrative regulations; and*
 - (c) *Beginning on January 1, 2020, and at least once every six (6) months thereafter, publish a list of administrative regulations that have expired since the most recent previous list was published under this paragraph.*

- (4) *Within three (3) months of the effective date of this Act, and at least once every six (6) months thereafter, the regulations compiler shall publish a list of existing administrative regulations and their corresponding last effective dates.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *If an administrative body does not want an administrative regulation to expire under Section 4 of this Act, the administrative body shall:*
- (a) *Review the administrative regulation in its entirety for compliance with the requirements of KRS Chapter 13A and current law governing the subject matter of the administrative regulation; and*
 - (b) *Prior to the expiration date, file a certification letter with the regulations compiler stating whether the administrative regulation shall be amended or remain in effect without amendment.*
- (2) *The certification letter shall be on the administrative body's official letterhead, in the format prescribed by the regulations compiler, and include the following information:*
- (a) *The name of the administrative body;*
 - (b) *The number of the administrative regulation;*
 - (c) *The title of the administrative regulation;*
 - (d) *A statement that:*
 - 1. *The administrative body shall be amending the administrative regulation; or*
 - 2. *The administrative regulation shall remain in effect without amendment; and*
 - (e) *A brief statement in support of the decision.*
- (3) (a) *If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall be amended, the administrative body shall file an amendment to the administrative regulation in accordance with KRS Chapter 13A within eighteen (18) months of the date the certification letter was filed.*
- (b) *If the amendment was filed in accordance with paragraph (a) of this subsection:*
- 1. *The administrative regulation shall not expire if it is continuing through the administrative regulations process; or*
 - 2. *The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.*
- (c) *Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.*
- (4) *If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall remain in effect without amendment, the regulations compiler shall:*
- (a) *Update the administrative regulation's history line to state that a certification letter was received; and*
 - (b) *Change the last effective date of the administrative regulation to the date the certification letter was received.*
- (5) *If filed by the deadline established in KRS 13A.050(3), the regulations compiler shall publish in the Administrative Register of Kentucky each certification letter received:*
- (a) *In summary format; or*
 - (b) *In its entirety.*

Signed by Governor March 21, 2017.

(HB 67)

AN ACT relating to autopsy records.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

- (1) *No autopsy photograph, other visual image in whatever form, video recording, or audio recording shall be open to the public unless the spouse or personal representative of the decedent provides an express waiver to the state medical examiner, coroner, or other public official in lawful possession of those materials to make those materials public. However, the office of the state medical examiner, a coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording shall make an autopsy photograph, other visual image in whatever form, video recording, or audio recording available to:*
- (a) *The spouse, children, and surviving parents, and the personal representative of the decedent;*
 - (b) *A law enforcement agency, any agency or panel required by statute to conduct fatality reviews, county attorney, Commonwealth's attorney, public health officer, or coroner having a bona fide interest in the case;*
 - (c) *1. A beneficiary under an insurance policy, for the purpose of processing a claim related to the decedent's death; or*
2. An insurance company, with the written permission of the decedent's spouse or personal representative, for the purpose of processing a claim related to the decedent's death;
 - (d) *An attorney or an attorney's agents in a matter arising out of the decedent's death;*
 - (e) *A defendant in any criminal case arising out of the decedent's death if the defendant is proceeding pro se in the case;*
 - (f) *A physician or other medical professional licensed by the Commonwealth or another state or territory under the jurisdiction of the United States for the purposes of teaching or for publication in a scientific journal or textbook;*
 - (g) *A certified law enforcement instructor for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio recording in bona fide law enforcement training;*
 - (h) *A county attorney, Commonwealth's attorney, public health officer, or coroner for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio recording in bona fide training;*
 - (i) *A licensed attorney for the purpose of using the autopsy photograph, other visual image in whatever form, video recording, or audio recording in a Kentucky continuing legal education program; and*
 - (j) *A person disseminating the image as part of an informative, expressive, or artistic work, whether analog or digital, that is:*
 - 1. Part of a play, book, magazine, newspaper, audiovisual work, or cable, broadcast, or satellite television program; or*
 - 2. Part of a work of art, including but not limited to news or commentary;*
- after a court with jurisdiction as provided in subsection (8)(a) of this section, in a proceeding including parties entitled to notice under subsection (8)(b) of this section, has determined that the autopsy photograph, other visual image in whatever form, video recording, or audio recording is newsworthy or pertains to a matter of public concern or public interest.*
- (2) (a) *Except as provided in paragraph (b) of this subsection, no medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording shall knowingly release those materials to any person not specifically authorized in subsection (1) of this section.*
- (b) *A medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording may publish such material in a scientific journal or textbook, or use such material for bona fide teaching or training after:*

1. *Redacting the decedent's name, address, and Social Security number; and*
 2. *Obscuring any distinguishing physical features which would allow a viewer to identify the decedent, including but not limited to the decedent's face or any tattoos.*
- (3) *No autopsy photograph, other visual image in whatever form, video recording, or audio recording supplied by the state medical examiner, coroner, or other public official in lawful possession of those materials pursuant to subsection (1)(b) to (j) of this section shall be used for any purpose not specifically described therein.*
- (4) *When the purpose for the use of an autopsy photograph, other visual image in whatever form, video recording, or audio recording has been achieved, the material shall be destroyed by the person to whom it was made available under this section.*
- (5) *When the state medical examiner, coroner, or other public official in lawful possession of an autopsy photograph, other visual image in whatever form, video recording, or audio recording makes the materials available under subsection (1)(f) to (j) of this section:*
1. *The name, address, and Social Security number of the decedent shall be redacted; and*
 2. *Any distinguishing physical features which would allow a viewer to identify the decedent, including but not limited to the decedent's face or any tattoos, shall be obscured.*
- (6) *Any person seeking any autopsy photograph, other visual image in whatever form, video recording, or audio recording pursuant to this Section shall pay any fee allowed under KRS 72.260 for the requested items.*
- (7) *The provisions of this section shall not be construed to contravene or limit the production of records pursuant to the Rules of Civil Procedure or the Rules of Criminal Procedure.*
- (8) (a) *The Circuit Court of the county where the decedent resided or, if the decedent was not a resident of the Commonwealth, in which an autopsy photograph, other visual image in whatever form, video recording, or audio recording is located may, upon a showing of good cause, issue an order authorizing any person to view or copy a photograph, other visual image in whatever form, video recording, or audio recording of an autopsy or to listen to or copy an audio recording of an autopsy, and may prescribe any restrictions or stipulations that the court deems appropriate. In determining good cause, the court shall consider whether this disclosure is necessary for the public evaluation of governmental performance, whether the disclosure is the least intrusive means available, and the availability of similar information in other public records, regardless of form. In all cases, the viewing, copying, listening to, or other handling of a photograph, other visual image in whatever form, video recording, or audio recording of an autopsy shall be under the direct supervision of the custodian of the record or of the custodian's designee.*
- (b) 1. *The spouse or personal representative of the decedent shall be given:*
- a. *Reasonable notice of a petition filed with the court to view or copy a photograph, other visual image in whatever form, video recording, or audio recording of an autopsy or a petition to listen to or copy an audio recording;*
 - b. *A copy of the petition; and*
 - c. *Reasonable notice of the opportunity to be present and heard at any hearing on the matter.*
2. *If there is no surviving spouse or personal representative, then the notice shall be given to the deceased's adult children or, if the deceased has no adult children, to the surviving parents of the deceased, and, if there is no individual to represent the estate of the decedent, then the court shall proceed to schedule a hearing without giving such notice.*

➔Section 2. KRS 72.992 is amended to read as follows:

- (1) Any person who violates KRS 72.020(1) or who interferes with the coroner in the lawful performance of his duties shall be fined not less than two hundred fifty dollars (\$250), or be confined in jail for not more than ninety (90) days, or both.
- (2) Any coroner or deputy coroner who violates KRS 72.025 or 72.020 shall be guilty of willful neglect of official duties and shall be fined no more than one thousand dollars (\$1,000) or forfeiture of office or both.

- (3) Any law enforcement officer who violates KRS 72.020 shall be guilty of willful neglect of official duties and shall be fined no more than one thousand dollars (\$1,000) or forfeiture of office or both.
- (4) (a) 1. *Except as provided in subparagraph 2. of this paragraph, any violation of Section 1 of this Act by an individual other than the surviving spouse, children, parents, or personal representative of the decedent shall result in a fine of not more than five hundred dollars (\$500) for the first violation and not more than one thousand dollars (\$1,000) for each subsequent violation.*
2. *Any violation of subsection (3) of Section 1 of this Act shall result in a fine which equals the greater of the appropriate fine provided for in subparagraph 1. of this paragraph or three (3) times any profits derived from violating subsection (3) of Section 1 of this Act.*
- (b) *Any fine collected under paragraph (a) of this subsection shall be paid into the crime victims' compensation fund created under KRS 346.185.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

Sections 1 and 2 of this Act may be cited as Jack's Law.

➔Section 4. This Act is not meant to alter or change in any way the current law in the Commonwealth relating to the availability of autopsy records that are not otherwise specifically provided for in this Act.

Signed by Governor March 21, 2017.

CHAPTER 79

(HB 74)

AN ACT relating to motor vehicle equipment.

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

➔Section 1. KRS 189.950 is amended to read as follows:

- (1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.
- (2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.
- (3) *Except as otherwise provided for in this section, a person shall not illuminate a blue light that is affixed to a motor vehicle while operating the motor vehicle on a highway. This subsection shall not apply to:*
 - (a) *Any light on a motorcycle that is not affixed to the front of the motorcycle; or*
 - (b) *Nonhalogen headlamps that have a slight blue tint and meet United States Department of Transportation regulations.*
- (4) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.
- (5)~~(4)~~ Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency or to a location

where another emergency vehicle is on emergency call in the performance of his official duties as a member of a fire department or rescue squad.

~~(6)(5)~~ Any constable may, upon approval of the fiscal court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws. Any constable authorized by the fiscal court to utilize blue lights and a siren pursuant to this section shall maintain at least the insurance described by KRS 304.39-110.

~~(7)(6)~~ Any person who is a paid or voluntary member of any ambulance service furnishing emergency medical services for a political subdivision of the state may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief or director of the ambulance service. He may use such lights and equipment only while proceeding to the scene of an emergency, a medical facility, or to a location where another emergency vehicle is on emergency call in the performance of his official duties as a member of the ambulance service.

➔Section 2. KRS 189.040 is amended to read as follows:

- (1) Every motor vehicle, other than a motorcycle or ~~moped~~~~[motor-driven cycle]~~, shall be equipped with at least two (2) ~~headlamps~~~~[head lamps]~~ with at least one (1) on each side of the front of the motor vehicle, which ~~headlamps~~~~[head lamps]~~ shall comply with the requirements and limitations set forth in this section.
- (2) Every motorcycle ~~and~~~~[,]~~ ~~moped~~~~[, and every motor-driven cycle]~~ shall be equipped with at least one (1) and not more than two (2) ~~headlamps~~~~[head lamps]~~ which shall comply with the requirements and limitations of this section.
- (3) Except as hereinafter provided, the ~~headlamps~~~~[head lamps]~~ or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles, other than a motorcycle or ~~moped~~~~[motor-driven cycle]~~, shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, subject to the following requirements and limitations:
 - (a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading;
 - (b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver; and
 - (c) Every new motor vehicle, other than a motorcycle or ~~moped~~~~[motor-driven cycle]~~, registered in this state after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the ~~headlamps~~~~[head lamps]~~ is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.
- (4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light or composite beam directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.
- (5) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, ~~the~~~~[such]~~ driver shall use a distribution of light or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.
- (6) Whenever the driver of a vehicle follows another vehicle within three hundred (300) feet to the rear, except when engaged in the act of overtaking and passing, ~~the~~~~[such]~~ driver shall use a distribution of light other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

- (7) Headlamps arranged to provide a single distribution of light not supplemented by auxiliary driving lights shall be permitted on motor vehicles manufactured and sold prior to May 30, 1939, in lieu of multiple-beam road-lighting equipment, if the single distribution of light complies with the following requirements and limitations:
- (a) The headlamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty-five (25) feet ahead, project higher than a level of five (5) inches below the level of the center of the light from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands, at a distance of seventy-five (75) feet ahead;
 - (b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet;
 - (c) Whenever the operator of a motor vehicle approaches an oncoming vehicle within five hundred (500) feet, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. In no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.
- (8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.
- (9) The height of the headlamps, from the center of the lamp to level ground when the vehicle is unloaded, shall be between twenty-four (24) and fifty-four (54) inches.
- (10) *Headlamps required under this section shall only emit white light. Halogen headlamps may have a slight yellow or amber tint. Nonhalogen headlamps may emit a slight blue tint, if the headlamps were installed by the vehicle manufacturer as original equipment in the motor vehicle, motorcycle, or moped or the headlamps meet the requirements of subsection (11) of this section.*
- (11) *A motor vehicle, motorcycle, or moped shall only be equipped with headlamps that meet United States Department of Transportation regulations.*
- (12) *A motor vehicle, motorcycle, or moped shall not be retrofitted with a headlamp that appears to emit a solid color of light other than white.*
- (13) *A motor vehicle, motorcycle, or moped shall not be retrofitted with a headlamp cover or film that changes the light emitted from the headlamp to a color other than white.*
- (14) *Except as provided in subsection (10) of this section, except as provided in paragraph (b) of subsection (3) of Section 1 of this Act, and except for vehicles exempted under the provisions of KRS 189.910 to 189.950, when operating on a highway or upon the right-of-way of a highway, any:*
- (a) *Visible front lights on a motor vehicle or any light that is affixed to the front of a motorcycle or moped, shall only be white or amber, unless installed as original equipment by the manufacturer; and*
 - (b) *Visible rear lights on a motor vehicle shall only be white, amber, or red, unless installed as original equipment by the manufacturer.*
- (15) *Any violation of this section for the illumination of a solid blue light or solid blue lights shall be deemed to be a violation of subsection (3) of Section 1 of this Act.*

➔Section 3. KRS 189.993 is amended to read as follows:

- (1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars (\$60) and costs of prosecution.
- (3) Any person who violates any provision of KRS 189.205 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).

- (4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).
- (5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars (\$60) nor more than two hundred dollars (\$200) or be imprisoned for not more than thirty (30) days, or both.
- (6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars (\$20) nor more than thirty-five dollars (\$35).
- (7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle not authorized to use emergency lights under KRS 189.920, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars (\$60) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not more than thirty (30) days, or both.
- (9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars (\$60) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, *except as outlined in subsection (11) of this section*, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (10) If a member of a regular or volunteer fire department, ambulance service, or rescue squad violates any provisions of subsection (6) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or this section, be immediately dismissed from his membership or employment with the fire department, ambulance service, or rescue squad and shall be disqualified from being employed by or being a member of any fire department, ambulance service, or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, ambulance service, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.
- (11)
 - (a) *Any person who violates subsection (3) of Section 1 of this Act shall be fined one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, and one thousand dollars (\$1,000) for each subsequent offense.*
 - (b) *Except as provided in paragraph (a) of this subsection*, any person who violates KRS 189.950 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.
- (12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense, except that no penalty shall be assessed for a violation of KRS 189.580(1)(b) or (6)(b).
- (13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation and shall be deposited in the resource recovery road fund.

Signed by Governor March 21, 2017.

CHAPTER 80

(HB 276)

AN ACT relating to statutorily required boards, councils, commissions, organizations, and reports.

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

➔Section 1. KRS 11.400 is amended to read as follows:

- (1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky, the duties of the Lieutenant Governor shall be as follows:
 - (a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;
 - (b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;
 - (c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;
 - (d) ~~{To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;~~
 - ~~(e) —~~ To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030; and
 - ~~(e){(f)}~~ To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:
 - ~~1. — The Southern Growth Policies Board as prescribed by KRS 147.585;~~
 - ~~1.{2}~~ The Breaks Interstate Park Commission as provided in KRS 148.225;
 - ~~2.{3}~~ The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
 - ~~3.{4}~~ The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
 - ~~4.{5}~~ The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
 - ~~5.{6}~~ The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.
- (2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

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

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

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

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

- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.

1. Office for the Blind.
2. Office of Vocational Rehabilitation.
3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.

3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
- (h) Department of Charitable Gaming.

1. Division of Licensing and Compliance.
2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.

4. Division of Security and Compliance.
5. Division of Information and Research.
6. Division of Ombudsman and Workers' Compensation Specialist Services.
7. Workers' Compensation Board.
8. ~~Workers' Compensation Advisory Council.~~
9. ~~Workers' Compensation Nominating Commission.~~
- (f) Workers' Compensation Funding Commission.
- (g) ~~Kentucky Labor Management Advisory Council.~~
- ~~(h)~~ Occupational Safety and Health Standards Board.
- ~~(h)~~~~(i)~~ Prevailing Wage Review Board.
- ~~(i)~~~~(j)~~ Apprenticeship and Training Council.
- ~~(j)~~~~(k)~~ State Labor Relations Board.
- ~~(k)~~~~(l)~~ Employers' Mutual Insurance Authority.
- ~~(l)~~~~(m)~~ Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.

2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.

- (h) Commonwealth Office of Technology.
- (i) State Property and Buildings Commission.
- (j) Office of Equal Employment Opportunity and Contract Compliance.
- (k) Kentucky Employees Retirement Systems.
- (l) Commonwealth Credit Union.
- (m) State Investment Commission.
- (n) Kentucky Housing Corporation.
- (o) Kentucky Local Correctional Facilities Construction Authority.
- (p) Kentucky Turnpike Authority.
- (q) Historic Properties Advisory Commission.
- (r) Kentucky Tobacco Settlement Trust Corporation.
- (s) Kentucky Higher Education Assistance Authority.
- (t) Kentucky River Authority.
- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.

6. Division of Wildlife.
7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.

1. Division of Museums.
2. Division of Oral History and Educational Outreach.
3. Division of Research and Publications.
4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 3. KRS 15.010 is amended to read as follows:

- (1) The Attorney General is the head of the Department of Law.
- (2) The Department of Law shall include the following major organizational units:
 - (a) Criminal Appellate Division;
 - (b) Consumer Protection Division;
 - (c) Special Investigations Division;
 - (d) Special Prosecutions Division;
 - (e) Prosecutors Advisory Council Services Division;
 - (f) Medicaid Fraud and Abuse Control Division;

- (g) Civil and Environmental Law Division;
- (h) Victims Advocacy Division;
- (i) ~~{Child Support Enforcement Commission;~~
- ~~(j) —~~Administrative Hearings Division;
- ~~(j){(k)}~~ Office of Rate Intervention;
- ~~(k){(l)}~~ Administrative Services Division; and
- ~~(l){(m)}~~ Financial Integrity Enforcement Division.

➔Section 4. KRS 45A.605 is amended to read as follows:

- (1) As used in this section:
 - (a) "Information highway" means a communication network for voice, data, and video communications technologies; and
 - (b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.
- (2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. These opportunities shall include but not be limited to the implementation of transactions and activities associated with~~the Kentucky e Health Network created under KRS 216.267 and~~ the provision of telehealth by licensed health-care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.
- (3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.
- (4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.~~— The Kentucky e Health Network Board may use the information highway to implement the network but shall not be limited to its use for communication services.~~
- (5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.
- (6) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which any entity that has been approved for economic development incentives under programs approved and administered by the Kentucky Economic Development Finance Authority may have access and use on the same terms as agencies of the Commonwealth of Kentucky.
- (7) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which nonprofit organizations whose exclusive purpose is the delivery of services related to education, economic development, or cultural arts and humanities, may have access and use on the same terms as agencies of the Commonwealth of Kentucky. For the purposes of this section, "nonprofit organizations" means those organizations which have been granted tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code or those existing education based entities whose purpose is the delivery of services to state school systems, their employees, or their governing organizations and which have been granted tax-exempt status under Section 501(c)(6) of the United States Internal Revenue Code.

➔Section 5. KRS 148.400 is amended to read as follows:

- ~~{(1) My Old Kentucky Home Advisory Commission is hereby established to provide continuing attention to the maintenance, furnishings, and repairs of My Old Kentucky Home House Museum, as well as to any other additions made, after July 15, 1986, to the grounds of My Old Kentucky Home State Park. The commission shall be attached to the Department of Parks for administrative purposes.~~
- ~~(2) The commission shall consist of eleven (11) members. It is recommended that one (1) member shall be the park superintendent of My Old Kentucky Home State Park, one (1) shall be a representative of the Kentucky Heritage Council, one (1) shall be a representative of the Kentucky Historical Society, one (1) shall be a representative of the Division of Historic Properties, one (1) shall be a representative of the commissioner of the Department of Parks, and the remainder of the membership shall be selected from private citizens interested in historic properties with at least two (2) members who are residents of Nelson County.~~
- ~~(3) The public members of the commission shall be appointed by the Governor. Four (4) members shall serve for terms of four (4) years and two (2) members shall serve for terms of two (2) years. Representatives of state government shall serve terms concurrent with holding their respective offices.~~
- ~~(4) The officers of the commission shall consist of a chairman and vice chairman, who shall be elected by the membership and a secretary who shall be responsible for the keeping of minutes and serve as staff to the commission. The park superintendent at My Old Kentucky Home State Park shall serve as secretary to the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.~~
- ~~(5) There shall be no compensation for serving on the commission, but the members shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties for the commission.~~
- ~~(6) The commission shall meet at least once a year or when called in to session by the chairman, or at the request of the Governor, or any two (2) members to the chairman.~~
- ~~(7) The commission shall examine the house and shall require maintenance of inventory records, approve any major changes to the house, and shall make recommendations to the Department of Parks through the park superintendent. The commissioner of the Department of Parks may review and approve those recommendations based on funds available.~~
- ~~(8) There is established in the State Treasury "My Old Kentucky Home Endowment Fund" which shall be administered by the park superintendent at My Old Kentucky Home State Park under the supervision of the commissioner of the Department of Parks and pursuant to the recommendations of My Old Kentucky Home Advisory Commission. The fund may receive state appropriations, federal funds, and private donations. The fund shall be used for maintenance, furnishings, and repairs of My Old Kentucky Home House Museum and maintenance of the grounds of My Old Kentucky Home State Park carrying out the functions of the commission.~~

➔Section 6. KRS 154.12-274 is amended to read as follows:

- (1) As used in this section, "cluster" shall have the same meaning as in KRS 164.6011.
- (2) It is the intention of the General Assembly to recognize that a strong manufacturing base for the economy of the Commonwealth requires not only modernization of the production process but also an increase in the number of products developed, so that through the creation of new product lines, additional value-added products, and new manufacturing methods the economy will grow and quality job opportunities will increase. The Cabinet for Economic Development shall support this intention through its authority in KRS 154.12-050.
- (3) The Cabinet for Economic Development shall enter into contracts or agreements with the Kentucky Manufacturing Assistance Center, a nonprofit organization with the mission to assist Kentucky small and medium-size manufacturers to become more competitive in the global marketplace. The contracts or agreements shall require the Kentucky Manufacturing Assistance Center to undertake the following activities:
 - (a) Negotiate contractual agreements with existing manufacturers to deliver modernization services that are likely to lead to the creation of new product lines, additional value-added products, and new manufacturing methods;
 - (b) Deliver engineering, technical, and business improvement services in Kentucky manufacturing facilities, through the network of Kentucky Technology Service locations in the state, that lead to the development of new product lines, additional value-added products, and new manufacturing methods;

- (c) Coordinate services for and support the activities of Kentucky manufacturers that need additional projects, activities, and expertise beyond those available through the Kentucky Manufacturing Assistance Center;
- (d) Promote, along with other economic development entities, the development of supplier chains, the linkages among suppliers, and the growth of clusters within the Commonwealth; and
- (e) Provide to the Cabinet for Economic Development ~~and Kentucky Innovation Commission~~ a report of the advances made in the manufacturing modernization projects initiated.

➔Section 7. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) The Office of Entrepreneurship shall:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-310;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy ~~as approved by the Kentucky Innovation Commission, January 7, 2002, or as revised,~~ and report annually by November 1 to ~~the Kentucky Innovation Commission, and to~~ the Governor and the Legislative Research Commission, as required in KRS 154.12-2035;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for innovative businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;
 - (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky Enterprise Fund Program, the Rural Innovation Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.
- (3) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The executive director, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The executive director shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.
- (4) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The executive director, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (5) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

➔Section 8. KRS 154.20-255 is amended to read as follows:

- (1) (a) The total amount of tax credits available to any single investment fund awarded tax credits under KRS 154.20-250 to 154.20-284 shall not exceed, in aggregate, eight million dollars (\$8,000,000) for all investors and all taxable years.
- (b) The total tax credits available for all investors in all investment funds awarded under KRS 154.20-250 to 154.20-284, and all qualified investors awarded under KRS 154.20-230 to 154.20-240, shall not exceed a total of forty million dollars (\$40,000,000).
- (2) A person or entity seeking to be approved as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to KRS 154.20-256, in addition to complying with applicable state and federal securities laws and regulations.
- (3) Prior to the granting of any tax credits to investors of an investment fund, the committed cash contributions to an investment fund shall be not less than five hundred thousand dollars (\$500,000).
- (4) An investment fund shall have no less than four (4) investors, and no investor or investment fund manager, including their immediate family members, as defined in KRS 164.6011(6)(7), and affiliates may own or have a capital interest in more than forty percent (40%) of the investment fund's capitalization.
- (5) Subsequent to approval of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. The effective date of the agreement shall be the date of approval of the investment fund and the investment fund manager by the authority. If an investment fund manager fails to comply with any of the obligations of the agreement, the authority may, at its option, do any one (1) or more of the following:
 - (a) Suspend the availability of the credits;
 - (b) Pursue any remedy provided under the agreement, including termination of the agreement; or
 - (c) Pursue any other remedy at law to which it may be entitled.
- (6) Any investor shall be entitled to a tax credit as a result of its investment in an investment fund as provided in KRS 154.20-258.
- (7) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using approved qualified investments, shall not exceed thirty percent (30%) of the committed cash contributions to the investment fund. This restriction shall not apply to investments of money by the investment fund that are not qualified investments.
- (8) The provisions of this section shall not prohibit an investment fund from investing in a business that is not a small business, including a business that is located outside of the Commonwealth; however, such investments shall not be eligible for the tax credit set forth in KRS 154.20-258.

➔Section 9. KRS 154.20-264 is amended to read as follows:

- (1) Each investment fund manager shall file an annual report with the commissioner of the Department of Revenue and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:
 - (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund, the job creation anticipated and achieved by the small business, and new products and technologies being developed by the small business;
 - (b) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund management firm that states:
 1. At the time of each qualified investment, each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;
 2. The name and address of each investor, and the amount of cash contribution to the investment fund of each investor who is entitled to the credits; and

3. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations.
- (2) The authority shall provide an annual written status report to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky investment fund for each fiscal year beginning with the fiscal year ended July 30, 2003. On or before November 1 of each year, the authority shall make an annual report for the preceding fiscal year to the Governor ~~and~~ the Legislative Research Commission, ~~and the Kentucky Innovation Commission~~. The annual report shall include but not be limited to the following information:
 - (a) The total number of investors and the aggregate amount of committed cash contributions to all investment funds, categorized by the types of business entities through which investors conduct business and the geographical distribution of investors, including the area development districts;
 - (b) The total number and amounts of qualified investments made by each investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and
 - (c) The total amount of credits granted to investors.
- (3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

➔Section 10. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
 - (b) Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in KRS 158.845;
 - (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - (d) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - (e) The requirements for an alternative high school diploma for students with disabilities whose individualized education program indicates that, in accordance with 20 U.S.C. sec. 1414(d)(1)(A):
 1. The student cannot participate in the regular statewide assessment; and
 2. An appropriate alternate assessment has been selected for the student based upon a modified curriculum and an individualized course of study;

- (f) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - (g) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - (h) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
 - (i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
 - (j)
 - 1. Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced practice registered nurse, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school.
 - 2. A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;
 - (k) The transportation of children to and from school;
 - (l) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
 - (m) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
 - (n) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
 - (o) The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
- 1. An alternative approach will achieve the same result required by the administrative regulation;
 - 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 - 3. There is a finding of good cause for the waiver.

- (b) The following shall not be subject to waiver:
 - 1. Administrative regulations relating to health and safety;
 - 2. Administrative regulations relating to civil rights;
 - 3. Administrative regulations required by federal law; and
 - 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, ~~158.685~~, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
 - (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 11. KRS 160.107 is amended to read as follows:

- (1) A district which is an applicant to be designated as a district of innovation under KRS 156.108 shall:
 - (a) Establish goals and performance targets for the district of innovation proposal, which may include:
 - 1. Reducing achievement gaps among groups of public school students by expanding learning experiences for students who are identified as academically low-achieving;
 - 2. Increasing pupil learning through the implementation of high, rigorous standards for pupil performance;
 - 3. Increasing the participation of students in various curriculum components and instructional components within selected schools to enhance students' preparation at each grade level;
 - 4. Increasing the number of students who are college and career-ready; and
 - 5. Motivating students at different grade levels by offering more curriculum choices and student learning opportunities to parents and students within the district;
 - (b) Identify changes needed in the district and schools to lead to better-prepared students for success in life and work;
 - (c) Have a district-wide plan of innovation that describes and justifies which schools and innovative practices will be incorporated;
 - (d) Provide documentation of community, educator, parental, and the local board's support of the proposed innovations;
 - (e) Provide detailed information regarding the rationale of requests for waivers from Kentucky Revised Statutes and administrative regulations, and exemptions for selected schools regarding waivers of local board of education policies;
 - (f) Document the fiscal and human resources the board will provide throughout the term of the implementation of the innovations within its plan; and

- (g) Provide other materials as required by the Kentucky Department of Education in compliance with the state board's administrative regulations and application procedures.
- (2) The district and all schools participating in a district's innovation plan shall:
- (a) Ensure the same health, safety, civil rights, and disability rights requirements as are applied to all public schools;
 - (b) Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;
 - (c) Ensure that high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation or meet early graduation requirements that may be enacted by the General Assembly;
 - (d) Ensure the student performance standards meet or exceed those adopted by the Kentucky Board of Education~~[as required by KRS 158.685]~~, including compliance with the statewide assessment system specified in KRS 158.6453;
 - (e) Adhere to the same financial audits, audit procedures, and audit requirements as are applied under KRS 156.265;
 - (f) Require state and criminal background checks for staff and volunteers as required of all public school employees and volunteers within the public schools and specified in KRS 160.380 and 161.148;
 - (g) Comply with open records and open meeting requirements under KRS Chapter 61;
 - (h) Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480;
 - (i) Provide overall instructional time that is equivalent to or greater than that required under KRS 158.070, but which may include on-site instruction, distance or virtual learning, and work-based learning on nontraditional school days or hours; and
 - (j) Provide data to the Kentucky Department of Education as deemed necessary to generate school and district reports.
- (3)
- (a) Only schools that choose to be designated as schools of innovation shall be included in a district's application.
 - (b)
 - 1. As used in this paragraph, "eligible employees" means employees that are regularly employed at the school and those employees whose primary job duties will be affected by the plan.
 - 2. A vote shall be taken among eligible employees in a school to determine if the school shall be an applicant as a school of innovation in a district's proposal and to approve the school's plan of innovation before it is submitted to the district. At least seventy percent (70%) of those casting votes shall vote in the affirmative in order for the school to request inclusion in the district's plan and to approve the school's plan of innovation.
 - 3. The school-based decision making council shall be responsible for conducting the vote provided for in subparagraph 2. of this paragraph, which shall be by secret ballot.
 - (c) Notwithstanding the provisions of paragraph (a) of this subsection, a local board of education may require a school that has been identified as a persistently low-achieving school under KRS 160.346 to participate in the district's plan of innovation.
- (4)
- (a) With approval of the state board, a school of innovation may request and be granted waivers from all or selected provisions of KRS 160.345 relating to school-based decision making.
 - (b) To be exempt from KRS 160.345, a school-based decision making council shall vote by secret ballot to determine if it wishes to request a waiver from KRS 160.345 or specific provisions within that statute. Only a school that has seventy percent (70%) or more of the teachers and staff in the school voting to waive its rights and responsibilities under KRS 160.345 shall be eligible.
 - (c) No local board of education or superintendent nor the Kentucky Board of Education may compel a school to waive its rights under KRS 160.345, except as provided in KRS 160.346.
 - (d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of Education for a specific school, there shall be assurances that teachers, parents, and staff in the affected school will be actively

involved in the management and decision-making operations of the schools, including input into employment matters and selection of personnel.

- (5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may approve the requests of districts of innovation to:
- (a) Use capital outlay funds for operational costs;
 - (b) Hire persons for classified positions in nontraditional school and district assignments who have bachelor's and advanced degrees from postsecondary education institutions accredited by a regional accrediting association as defined in KRS 164.740;
 - (c) Employ teachers on extended employment contracts or extra duty contracts and compensate them on a salary schedule other than the single salary schedule;
 - (d) Extend the school days as is appropriate within the district with compensation for the employees as determined locally;
 - (e) Establish alternative education programs and services that are delivered in nontraditional hours and which may be jointly provided in cooperation with another school district or consortia of districts;
 - (f) Establish a virtual school within the district for delivering alternative classes to meet high school graduation requirements;
 - (g) Use a flexible school calendar;
 - (h) Convert existing schools into schools of innovation; and
 - (i) Modify the formula under KRS 157.360(2) for distributing support education excellence in Kentucky funds for students in average daily attendance in nontraditional programming time, including alternative programs and virtual programs. Funds granted to a district shall not exceed those that would have otherwise been distributed based on average daily attendance during regular instructional days.

➔Section 12. KRS 164.6011 is amended to read as follows:

As used in KRS 164.6011 to 164.6041, unless the context indicates otherwise:

- (1) "Applied research" means those research activities occurring at universities and in private enterprises that have potential commercial application;
- (2) "Cluster" means a geographically bound concentration of similar, related, or complementary businesses with active channels for business transactions, communications, and dialogue, that share specialized infrastructure, labor markets, and services, and that are faced with common opportunities and threats;
- ~~(3) "Commission" means the Kentucky Innovation Commission;~~
- ~~(4) "Commonwealth" means the Commonwealth of Kentucky;~~
- ~~(4)(5) "Council" means the Council on Postsecondary Education;~~
- ~~(5)(6) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, person, group, or other entity engaged in nonretail commerce, agribusiness, trade, or manufacturing;~~
- ~~(6)(7) "Immediate family members" means:~~
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;
- ~~(7)(8) "Kentucky-based company" means a business with its principal place of business in Kentucky or no less than fifty percent (50%) of its property and payroll located in Kentucky;~~
- ~~(8)(9) "Knowledge-based" means driven by knowledge, innovation, and speed;~~
- ~~(9)(10) "Medium-size company" means a business with fifty-one (51) to one hundred fifty (150) employees;~~

- (10)~~(11)~~ "Qualified company" means an eligible company that may be granted a funding voucher or award pending certification;
- (11)~~(12)~~ "Science and technology organization" means an independent, nonprofit or quasi-governmental organization, with a statewide mission, that has a demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, science, and technology advancement;
- (12)~~(13)~~ "Seed funding" means financing that is provided for early-stage development, refinement, and commercialization of a product, process, or innovation through continuing applied research, advancing the patent process, determining commercial and market potential, or moving research toward development of a prototype; and
- (13)~~(14)~~ "Small company" means a firm with fifty (50) or fewer employees.

➔Section 13. KRS 164.6017 is amended to read as follows:

- (1) The Council on Postsecondary Education shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6041, including but not limited to:
 - (a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and
 - (b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants, or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and
 - (c) Notwithstanding the provisions in paragraph (a) of this subsection, the commissioner of the Department of Commercialization and Innovation shall approve the contracts issued by the Council on Postsecondary Education regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320, 164.6021, 164.6029, and 164.6037.
- (2) The council may expend money in the funds created in KRS 164.6019, 164.6027, and 164.6035 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6041. It is the intent of the General Assembly that the funds created in KRS 164.6019, 164.6027, and 164.6035 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019, 164.6027, and 164.6035 is to replenish general fund appropriations for those same purposes.
- (3) The council shall contract with a science and technology organization to administer the programs created in KRS 164.6021, 164.6029, and 164.6037. The council shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the programs created in KRS 164.6021, 164.6029, and 164.6037.
- (4) No member of the council or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.
- (5) The council shall submit an annual report prior to October 15 to ~~the Kentucky Innovation Commission,~~ the Governor~~+~~, and the General Assembly detailing its work related to the programs created in KRS 164.6021, 164.6029, and 164.6037. The annual report shall be coordinated with the monitoring report by the Department of Commercialization and Innovation indicating progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.
- (6) All records related to the administration of the programs created in KRS 164.6021, 164.6029, and 164.6037 shall be deemed property of the council and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

➔Section 14. KRS 171.810 is amended to read as follows:

As used in KRS 171.810 to 171.814:

- (1) "Commission" means the Kentucky African-American Heritage Commission.
- (2) ~~"Council" means the Underground Railroad Advisory Council established in KRS 171.814.~~
- ~~(3)~~ "Underground Railroad" means the escape of African-American slaves from or through Kentucky.

➔Section 15. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

- (1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;
- (2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;
- (3) Develop and operate, in conjunction with the Tourism, Arts and Heritage Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a Web site connected to the Tourism, Arts and Heritage Cabinet;
- (4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;
- (5) ~~Consider the council's recommendations and, contingent on review by the council,]~~Present to the secretary of the Tourism, Arts and Heritage Cabinet an annual report and plan for future action; and
- (6) Pursue public and private funds to carry out the duties set forth in this section.

➔Section 16. KRS 171.816 is amended to read as follows:

The Tourism, Arts and Heritage Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with KRS 171.805 and 171.810 to ~~171.812~~~~[171.814]~~. The secretary of the Tourism, Arts and Heritage Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with KRS 171.812(5), and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

➔Section 17. KRS 194A.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary may utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations relating to initiatives of the Department for Public Health. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.
- ~~(3) The secretary may utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations relating to initiatives of the Department for Community Based Services. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority.~~
- ~~(4)~~ Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars (\$100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the

cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

➔Section 18. KRS 194A.090 is amended to read as follows:

- (1) The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public.
- (2) A Public Health Services Advisory Council is created within the cabinet.
 - (a) The council may advise the secretary for health and family services, the commissioner for public health, and officials of the Commonwealth on policy matters concerning the delivery of health services, including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the cabinet to fulfill federal requirements for citizen's advisory councils associated with programs designed to provide health services and to advise the cabinet on the development and content of the state health plan.
 - (b) The council shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Six (6) members of the council shall be chosen to broadly represent public interest groups concerned with health services, recipients of health services provided by the Commonwealth, minority groups, and the general public. Thirteen (13) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital, and one (1) shall be a physician in active practice. At least one (1) member shall be a registered sanitarian or sanitary engineer, one (1) a public health nurse, one (1) a member of the current minority advisory council, and one (1) a practicing public health physician. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that area development districts are represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the term begins for their appointed successors. No member shall serve more than two (2) consecutive terms. The chair of the council shall be appointed by the Governor. The secretary for health and family services and the commissioner for public health shall be nonvoting, ex officio members of the council, and the commissioner for public health shall be a staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for health and family services or the commissioner for public health. A majority of the appointed members shall constitute a quorum.
- (3) An Institute for Aging is created within the cabinet.
 - (a) The institute shall advise the secretary for health and family services and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.
 - (b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for health and family services shall be a nonvoting, ex officio member of, staff director for, and secretary to the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for health and family services. A majority of the appointed members shall constitute a quorum.†
- ~~(4) A Council for Families and Children is created within the cabinet.~~
 - ~~(a) The council may advise the secretary for health and family services, the commissioner for community based services, and other officials of the Commonwealth on policy matters relating to the human service needs.~~
 - ~~(b) The council shall be composed of no more than twenty one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals~~

~~involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for health and family services and the commissioner for community based services shall be nonvoting, ex officio members of the council, and the commissioner for community based services shall be staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for health and family services. A majority of appointed members shall constitute a quorum.~~

- ~~(e) When the Council for Families and Children is assigned a responsibility for qualifying the Commonwealth for federal programs with representations and membership formulas that conflict with the council's membership, the secretary may create special subcommittees to this citizens' body that meet federal requirements.~~

➔Section 19. KRS 194A.190 is amended to read as follows:

The Public Health Services Advisory Council~~, the Council for Families and Children~~, the Advisory Council for Medical Assistance, and the Institute for Aging shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

➔Section 20. KRS 194A.200 is amended to read as follows:

The members of ~~the Council for Families and Children,~~ the Public Health Services Advisory Council~~,~~ and the Institute for Aging shall receive no compensation for their services, but shall be allowed the necessary expenses incurred through the performance of their duties as members of this citizens' council. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

➔Section 21. KRS 216.900 is amended to read as follows:

As used in KRS 216.900 to 216.930, unless the context otherwise requires:

- ~~(1) "Board" means the Kentucky Board of Family Health Care Providers;~~
- ~~(2) "Linkage" means a formal written agreement initiated by a network, between the network and any agency providing emergency, hospital, home health, hospice, long-term care, mental health, substance abuse, aging, social, and educational services, as well as specialized health care services.~~
- ~~(3) "Midlevel health care practitioner" means a person qualified to provide health care services as enumerated by the board.~~
- ~~(2)(4) "Network" means a health care delivery network system which is an integrated system of health care services, including, but not limited to, the direct delivery of basic health services, such as patient histories and physicals, preventive health care, treatment of acute episodes of illness and chronic illness, immunizations, laboratory, X-ray, dental, and pharmacy services. Networks shall be formally linked to emergency, hospital, home health, hospice, long-term care, mental health, substance abuse, aging, social, and educational services as well as specialized services such as oncology, neurology, and surgery. The primary facility of a network shall be a clinic or physician's office only.~~
- ~~(5) "Medical chart auditor" means a person with at least two (2) years of experience with quality assurance review and with knowledge of the board approved protocols and the individual patient's treatment plan contained in the medical record.~~

➔Section 22. KRS 216.910 is amended to read as follows:

- (1) Any licensed network shall be permitted to establish one (1) extension site per full-time physician on the staff of the network. Extension sites shall not be required to have a separate license but shall conform to administrative regulations promulgated by the Cabinet for Health and Family Services and shall be inspected on a regular basis.
- (2) Each network shall establish protocols for the treatment of the twenty (20) most common patient problems. At a minimum, the protocols shall identify for each problem a working definition, patient symptoms, diagnostic techniques, acceptable values for laboratory findings, conditions under which a physician shall be consulted, and treatment methods. ~~These protocols shall be approved by the board. The protocols shall be listed in a handbook provided to each midlevel health care practitioner and shall be available to patients upon request.~~
- (3) Each network shall have a system of patient and family medical records which employs the problem-oriented medical record format.

- (4) A network shall employ a primary-care physician who has admitting privileges at a local hospital. The network shall hire ancillary personnel as necessary to provide the basic services of the network. ~~[-The network may hire midlevel health care practitioners to assist the physician but there shall be one (1) physician on staff for each midlevel health care practitioner.]~~
- (5) ~~—A physician shall see each patient for whom services are provided by a midlevel health care practitioner not less than twice a year. A medical chart auditor shall review the medical record entries for each patient encounter on the day of the encounter and will refer to the physician immediately any deviation from protocol.~~
- (6) ~~—Each network shall develop a quality assurance program which shall be approved by the board. At a minimum, the quality assurance program shall address:~~
- ~~(a) —Program goals and objectives;~~
 - ~~(b) —Program organization, including identification of responsible parties, the nature of their responsibilities, and the persons to whom they report; and~~
 - ~~(c) —Identification of the patient care process.]~~
- (5)~~[(7)]~~ Each network shall establish a process by which it regularly evaluates the health-care needs of its community and the services it provides in response to those needs.
- (6)~~[(8)]~~ Each network shall provide ~~[the following educational opportunities:~~
- ~~(a) —]ninety (90) minutes each week of continuing education to its health-care providers on topics relating to patient care needs;] and~~
 - ~~(b) —One and one half (1.5) days leave and fifty percent (50%) of expenses up to three hundred dollars (\$300) per year to its midlevel health care practitioners for approved continuing education outside of the network].~~
- (7)~~[(9)]~~ Each network shall either provide directly for twenty-four (24) hour, seven (7) day per week access to care for its patients or have formal written agreements with local providers to insure twenty-four (24) hour, seven (7) day per week access to care for its patients.~~]~~
- (10) ~~No network may charge or collect more money for the services of any midlevel health care practitioner than is allowable under Medicaid for other nonphysician practitioners.]~~

➔Section 23. KRS 315.040 is amended to read as follows:

- (1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.
- (2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.
- (3) ~~[Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.]~~
- (4) ~~—]Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.~~
- (4)~~[(5)]~~ Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.
- (5)~~[(6)]~~ Nothing in this chapter shall interfere with the activities of an advanced practice registered nurse as authorized in KRS Chapter 314.

➔Section 24. KRS 336.015 is amended to read as follows:

- (1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the Department of Labor.

- (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of Workers' Claims, and the Department of Workplace Standards.
- (3) The following agencies are attached to the cabinet for administrative purposes only:

- (a) ~~[(a)]~~ ~~Kentucky Labor Management Advisory Council;~~
- ~~(b)~~ [(b)] Kentucky Occupational Safety and Health Review Commission;
- ~~(b)~~ ~~(c)~~ [(c)] State Labor Relations Board;
- ~~(c)~~ ~~(d)~~ [(d)] Workers' Compensation Funding Commission;
- ~~(d)~~ ~~(e)~~ [(e)] Occupational Safety and Health Standards Board;
- ~~(e)~~ ~~(f)~~ [(f)] Prevailing Wage Review Board;
- ~~(f)~~ ~~(g)~~ [(g)] Apprenticeship and Training Council;
- ~~(g)~~ ~~(h)~~ [(h)] Employers' Mutual Insurance Authority;
- ~~(h)~~ ~~(i)~~ [(i)] Office of General Administration and Program Support for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet. The office is composed of the following divisions:
 1. Division of Human Resource Management;
 2. Division of Fiscal Management;
 3. Division of Budgets; and
 4. Division of Information Services; and
- ~~(i)~~ ~~(j)~~ [(j)] Office of Inspector General for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet.

➔Section 25. KRS 336.020 is amended to read as follows:

- (1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the Division of Employment Standards, Apprenticeship and Mediation, the Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of Workers' Compensation Funds. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.
- (2) The Department of Workers' Claims shall be headed by a commissioner who is nominated by the Workers' Compensation Nominating Commission, appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.213 and 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Office of General Counsel for Workers' Claims, the Division of Claims Processing, the Division of Information and Research, the Division of Security and Compliance, and the Division of Ombudsman and Workers' Compensation Specialist Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the commissioner and approved by the Governor in accordance with KRS 12.050 and 342.230. The following agencies are attached to the Department of Workers' Claims for administrative purposes only:
 - (a) Workers' Compensation Board; *and*
 - ~~(b)~~ ~~[(b)]~~ ~~Workers' Compensation Advisory Council; and~~
 - ~~[(c)]~~ [(c)] Workers' Compensation Nominating Commission.
- (3) The Office of General Counsel for the Labor Cabinet and the Division of Management Services are attached to the Office of the Secretary of the Labor Cabinet.

➔Section 26. KRS 342.382 is amended to read as follows:

- (1) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the Department of Workers' Claims ~~and the~~

~~Workers' Compensation Advisory Council~~ each year, and that information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:

- (a) Direct premiums written;
 - (b) Direct premiums earned;
 - (c) Dividends paid or credited to policyholders;
 - (d) Losses paid;
 - (e) Allocated loss adjustment expenses;
 - (f) The ratio of allocated loss adjustment expenses to losses paid;
 - (g) Unallocated loss adjustment expenses;
 - (h) The ratio of unallocated loss adjustment expenses to losses paid;
 - (i) The total of losses paid and unallocated and allocated loss adjustment expenses;
 - (j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;
 - (k) The number of claims outstanding as of December 31 of each year;
 - (l) The total amount of losses unpaid as of December 31 of each year;
 - (m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;
 - (n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and
 - (o) Net investment gain or loss.
- (2) The first report of the information required in subsection (1) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

➔Section 27. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:
 - (a) The student's family receives state-funded adoption assistance under KRS 199.555;
 - (b) The student is currently committed to the Cabinet for Health and Family Services under KRS 610.010(5) and placed in a family foster home or is placed in accordance with KRS 605.090(3);
 - (c) The student is in an independent living program and the placement is funded by the Cabinet for Health and Family Services;
 - (d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for Health and Family Services. A student who meets the eligibility criteria of this paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident; or
 - (e) The Cabinet for Health and Family Services was the student's legal custodian on his or her eighteenth birthday.
- (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility

while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:

- (a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;
 - (b) The student has been committed to the Department of Juvenile Justice for a period of at least twelve (12) months;
 - (c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;
 - (d) The parental rights of the student's biological parents have been terminated; or
 - (e) The student was committed to the Cabinet for Health and Family Services prior to a commitment to the Department of Juvenile Justice.
- (3) Upon request of the postsecondary institution, the Cabinet for Health and Family Services shall confirm the eligibility status under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570, 610.320, or 620.050.
- (4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 10871l, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- (5) The student shall be eligible for the tuition waiver:
- (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained, except when extended in accordance with subsection (6) of this section.
- (6) The expiration of a student's five (5) year eligibility under subsection (5)(b) of this section shall be extended upon a determination by the institution that the student was unable to enroll for or complete an academic term due to serving:
- (a) On active duty status in the United States Armed Forces;
 - (b) As an officer in the Commissioned Corps of the United States Public Health Service; or
 - (c) On active service in the Peace Corps Act or the Americorps.

The original expiration date shall be extended by the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.

- (7) ~~{The Cabinet for Health and Family Services shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.~~

- ~~(8) — {The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.~~

- (8){(9)} Nothing in this section shall be construed to:

- (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
- (b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;
- (c) Require any postsecondary institution to waive costs or fees relating to room and board; or

- (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Health and Family Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

➔Section 28. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Communications and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of the Ombudsman, and the Governor's Office of Electronic Health Information.
 - (a) The Office of Communications and Administrative Review shall include oversight of administrative hearings and communications with internal and external audiences of the cabinet. The Office of Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
 - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
 - (c) The Office of Inspector General shall be responsible for:
 - 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 - 2. Licensing and regulatory functions as the secretary may delegate;
 - 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; and
 - 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.
 - (d) The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
 - (e) The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the

duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ***ensure the administration of*** ~~provide the~~ services ~~and facilities~~ for children with disabilities as are deemed appropriate by the commission ***pursuant to Title V of the Social Security Act.*** ~~The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;~~
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and the Kentucky Commission on Community Volunteerism and Services. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise

authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

- (8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (10) The Office of Policy and Budget shall provide central review and oversight of budget, contracts, legislation, policy, grant management, boards and commissions, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

➔Section 29. KRS 194A.095 is amended to read as follows:

- (1) There is created in the Cabinet for Health and Family Services a Division of Women's Health for the purpose of:
 - (a) Serving as a repository for data and information affecting women's physical and mental health issues;
 - (b) Analyzing and communicating trends in women's health issues and mental health;
 - (c) Recommending to the Cabinet for Health and Family Services ~~and to any advisory committees created under KRS 216.2923,~~ data elements affecting women's physical and mental health. The division shall

advise and direct which data elements should be collected, analyzed, and reported in a timely manner under KRS 216.2920 to 216.2929;

- (d) Cooperating and collaborating with the Cabinet for Health and Family Services in receiving and disseminating through all forms of media including the Internet relevant aggregate data findings under KRS 216.2920 to 216.2929 which affect women; and
 - (e) Planning, developing, and administering a Women's Health Resource Center within the Cabinet for Health and Family Services to focus on targeted preventive care and comprehensive health education.
- (2) The division may accept gifts, grants, and bequests in support of its mission and duties specified in subsection (1) of this section. All money received shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

➔Section 30. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) An on-site visit of an assisted-living community shall be conducted by the cabinet:
 - (a) As part of the initial certification review process;
 - (b) On a biennial basis as part of the certification review process if during or since the previous certification review an assisted-living community has not received:
 - 1. Any statement of danger, unless withdrawn by the cabinet; or
 - 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service; and
 - (c) Within one (1) year of the date of the previous certification review if during or since the last certification review an assisted-living community has received:
 - 1. Any statement of danger that was not withdrawn by the cabinet; or
 - 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service.
- (3) No business shall market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; or
 - (b) Received certification by the department as an assisted-living community.
- (4) No business that has been denied or had its certification revoked shall operate or market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; and
 - (b) Received certification as an assisted-living community from the department. Revocation of certification may be grounds for the department to not reissue certification for one (1) year if ownership remains substantially the same.
- (5) No business shall operate as an assisted-living community unless its owner or manager has:
 - (a) Filed a current application for the business to be certified as an assisted-living community by the department; and
 - (b) Received certification as an assisted-living community from the department.
- (6) By September 1 of each year, each assisted-living community certified pursuant to this chapter may provide residents with educational information or education opportunities on influenza disease.
- (7) The department shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the department.

- (8) Individuals designated by the department to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (9) Upon receipt of an application for certification, the department shall assess an assisted-living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted-living community is no less than three hundred dollars (\$300) and no more than one thousand six hundred dollars (\$1,600). The department shall submit ~~to the Legislative Research Commission, by June 30 of each year,~~ a breakdown of fees assessed and costs incurred for conducting certification reviews *upon request*.
- (10) The department shall ~~submit to the Legislative Research Commission and~~ make *findings from certification reviews conducted during the prior twelve (12) months* available to any interested person ~~at no charge, by June 30 of each year, in summary format, all findings from certification reviews conducted during the prior twelve (12) months~~.
- (11) Notwithstanding any provision of law to the contrary, the department may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.
- (12) Failure to follow an assisted-living community's policies, practices, and procedures shall not result in a finding of noncompliance unless the assisted-living community is out of compliance with a related requirement under KRS 194A.700 to 194A.729.

➔Section 31. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for Health and Family Services shall be to:

- (1) Promote and aid in the establishment of local programs and services for the aging;
- (2) Conduct programs to educate the public as to problems of the aging;
- (3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the legislature for improvements in and additions to such programs and services;
- (4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;
- (5) Conduct and encourage other organizations to conduct studies concerning the aging;
- (6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;
- (7) Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet~~;~~
~~The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:~~
 - ~~(a) Contain an overview of the health status of minority elderly Kentuckians;~~
 - ~~(b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;~~
 - ~~(c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and~~
 - ~~(d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;~~
- (8) ~~[In preparing the report required by subsection (7) of this section,]~~The cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:
 - (a) Programs and services needed by the minority elderly;
 - (b) The extent to which existing programs do not meet the needs of the minority elderly;
 - (c) The accessibility of existing programs to the minority elderly;
 - (d) The availability and adequacy of information regarding existing services;

- (e) Health problems the minority elderly experience at a higher rate than the nonminority elderly population; and
- (f) Financial, social, and other barriers experienced by the minority elderly in obtaining services;
- (9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and
- (10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

➔Section 32. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 ~~and 205.465~~:

- (1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.
- (2) "Core services" means those services, including but not limited to client assessment and case management services, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.
- (3) "Cabinet" means the Cabinet for Health and Family Services.
- (4) "District" means an area development district designated pursuant to KRS 147A.050.
- (5) "Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.
- (6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall include chore services, home-delivered meals, home-health aide services, homemaker services, respite services, escort services, and home repair services.
- (7) "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.
- (8) "Home-delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is homebound by reason of illness, incapacity, or disability.
- (9) "Home-health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.
- (10) "Homemaker services" means general household activities, including but not limited to nonmedical personal care, shopping, meal preparation, and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.
- (11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.
- (12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

➔Section 33. KRS 205.525 is amended to read as follows:

- (1) Concurrent with submitting an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, and plan amendments, the Cabinet for Health and Family Services shall provide to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver or waiver amendment or request for a plan amendment.

- (2) The cabinet ~~at least quarterly~~ shall provide an update ~~to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue~~ on the status of the application for a waiver or waiver amendment or request for a plan amendment *upon request*.

➔Section 34. KRS 205.5606 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish the Kentucky Independence Plus Through Consumer-Directed Services Program that shall provide an option within each of the home and community-based services waivers. The option within each of the waiver programs shall be based on the principles of consumer choice and control and that shall be implemented upon federal approval, if required. The program shall allow enrolled persons to assist with the design of their programs and choose their providers of services and to direct the delivery of services to meet their needs.
- (2) The cabinet shall establish interagency cooperative agreements with any state agency as needed to implement and administer the program.
- (3) A person who is enrolled in a Medicaid home and community-based waiver program may choose to participate in the consumer-directed services program.
- (4) A consumer shall be allocated a monthly budget allowance based on the results of his or her assessed functional needs, his or her person-centered plan, and the financial resources of the program. The budget allowance shall be disbursed directly from a cabinet-approved fiscal intermediary on behalf of the consumer. The cabinet shall develop purchasing guidelines to assist each consumer in using the budget allowance to purchase needed, cost-effective services.
- (5) A consumer shall use the budget allowance to pay for nonresidential and nonmedical home and community-based services and supports that meet the consumer's needs and that constitute a cost-effective use of funds.
- (6) A consumer shall be allowed to choose providers of services, including but not limited to when and how the services are provided. A provider may include a person otherwise known to the consumer, unless prohibited by federal law.
- (7) If the consumer is the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:
 - (a) Developing a job description;
 - (b) Selecting providers and submitting information for any required background screening;
 - (c) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being purchased;
 - (d) Providing the fiscal intermediary with all information necessary for provider payments and tax requirements; and
 - (e) Ending the employment of an unsatisfactory provider.
- (8) If a consumer is not the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:
 - (a) With assistance of the cabinet or its agents, developing a person-centered plan and communicating needs, preferences, and expectations about services being purchased;
 - (b) Ending the services of an unsatisfactory provider; and
 - (c) Providing the fiscal agent with all information necessary for provider payments and tax requirements.
- (9) The roles and responsibilities of the cabinet or its agents shall include but not be limited to the following:
 - (a) Assessing each consumer's functional needs, helping with the development of a person-centered plan, and providing ongoing assistance with the plan;
 - (b) Offering the services of service advisors who shall provide training, technical assistance, and support to the consumer as prescribed through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A;
 - (c) Approving fiscal intermediaries; and
 - (d) Establishing the minimum qualifications for all providers and being the final arbiter of the fitness of any individual to be a provider.

- (10) The fiscal intermediary's roles and responsibilities shall include but not be limited to the following:
- (a) Providing recordkeeping services, including but not limited to maintaining financial records as required through administrative regulation promulgated in accordance with KRS Chapter 13A by the Cabinet for Health and Family Services; and
 - (b) Retaining the consumer-directed funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks.
- (11) (a) Each person who provides services or supports under this section shall comply on an annual basis with any required background screening. A person shall be excluded from employment upon failure to meet the background screening requirements unless otherwise exempted through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.
- (b) The service advisor shall, as appropriate, complete background screening as required by this section.
- (12) For purposes of this section, a person who has undergone screening, is qualified for employment under this section, and has not been unemployed for more than one hundred eighty (180) days following the screening shall not be required to be rescreened. Such person must attest under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening.
- (13) To implement this section:
- (a) The cabinet shall be authorized to promulgate necessary administrative regulations in accordance with KRS Chapter 13A; and
 - (b) The cabinet shall take all necessary action to ensure state compliance with federal regulations. The cabinet shall apply for any necessary federal waivers or federal waiver amendments to implement the program within three (3) months following July 13, 2004, pending availability of funding.
- (14) The cabinet, with consumer input, shall review and assess the implementation of the consumer-directed program. ~~[By January 15 of each year,]~~The cabinet shall **provide**~~[submit]~~ a ~~[written]~~ report ~~[to the General Assembly]~~ that includes the review of the program and recommendations for improvements to the program **upon request**.

➔Section 35. KRS 205.642 is amended to read as follows:

- (1) As used in this section and KRS 200.654, 200.660, 347.020, and 387.510, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five (5) diagnostic subcategories:
- (a) Autistic disorder;
 - (b) Pervasive disorder not otherwise specified;
 - (c) Asperger's disorder;
 - (d) Rett's disorder; and
 - (e) Childhood disintegrative disorder.
- (2) The Department for Medicaid Services shall make application, within three (3) months of July 15, 2002, to the Federal Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who:
- (a) Are Medicaid eligible;
 - (b) Have an Axis I diagnosis of a pervasive developmental disorder;
 - (c) Are institutionalized or at risk for institutionalization; and
 - (d) Require a coordinated plan of medically necessary community-based behavioral health services.
- (3) The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices.
- (4) The waiver application shall specify the required credentials for the providers of each service.
- (5) The cabinet shall cap the number of children served under the waiver program to insure budget neutrality based upon the expenditures for children with Pervasive Developmental Disorders that were served under the IMPACT Plus Program during fiscal years 2001-2002.

- (6) The cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated dollars, including but not limited to a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual.
- (7) The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services.
- (8) The Department for Medicaid Services shall report *information*~~[to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare]~~ on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes *upon request*.

➔Section 36. KRS 205.6487 is amended to read as follows:

- (1) A "Kentucky Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Kentucky Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the Kentucky Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.
- (2) The Kentucky Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Kentucky Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Kentucky Children's Health Insurance Program trust fund account.
- (3) The secretary of the Cabinet for Health and Family Services shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.
- (4) In administering the Kentucky Children's Health Insurance Program, the administrative costs under the program shall be limited to no more than ten percent (10%) of applicable program costs.
- (5) ~~[Notwithstanding the provisions of KRS 205.6336,]~~ The trust fund shall administer any savings from the implementation of the cabinet's Kentucky Children's Health Insurance Program through managed care and shall use those savings to provide state matching funds for any enhanced federal funds available under Title XXI of the Federal Social Security Act.

➔Section 37. KRS 205.8483 is amended to read as follows:

- (1) The Office of the Inspector General in the Cabinet for Health and Family Services shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for the purpose of receiving reports of alleged fraud and abuse by Medical Assistance Program recipients and participating providers.
- (2) The Office of the Inspector General in the Cabinet for Health and Family Services shall *develop and implement procedures for screening alleged fraud and abuse of the Medical Assistance Program to ensure that appropriate written referrals are made*~~[prepare a written description of the reported information and immediately make a written referral]~~ to:
 - (a) The state Medicaid Fraud Control Unit and to the Office of the Attorney General of *credible allegations of*~~[all reports of alleged]~~ fraud and abuse by providers ~~[or recipients]~~ participating in the Medical Assistance Program; and
 - (b) Other agencies and licensure boards of all *allegations received on the hotline that are*~~[reports]~~ relevant to their jurisdiction.
- (3) The Office of the Inspector General in the Cabinet for Health and Family Services *shall provide, upon request, a Medicaid fraud and abuse report that shall include but not be limited to the following information from the prior fiscal year*~~[, jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year, categorized by types of fraud and abuse and by recipient and provider group. This report shall be submitted no later than July 1 of each year to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare and shall identify:]~~

- (a) The number and type of reports received in the Office of the Inspector General in the Cabinet for Health and Family Services, from the Medicaid fraud and abuse hotline categorized by recipient and provider groups; *and*
- (b) The number and type of alleged Medicaid *recipient* fraud and abuse reports which were *opened for investigation by the Office of Inspector General and their disposition*~~[discovered by, received by, or referred to the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Office of the Inspector General, and the Department for Medicaid Services; the number and type of reports which were opened for investigation by the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Department for Medicaid Services, or the Office of the Inspector General and their disposition including:~~
 - 1. ~~Administrative actions taken;~~
 - 2. ~~Criminal penalties and civil payments received;~~
 - 3. ~~The amount of state and federal funds involved in the alleged fraud and abuse;~~
 - 4. ~~The cost of administering the hotline; and~~
 - 5. ~~Recommendations for legislative action to prevent, detect, and prosecute medical assistance abuse and fraud in the Commonwealth].~~

➔Section 38. KRS 209.554 is amended to read as follows:

- (1) The commissioner of the department shall implement the provisions of KRS 209.550 to 209.554 through the promulgation of administrative regulations under KRS Chapter 13A.
- (2) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every long-term care facility.
- (3) The department, on behalf of long-term care facilities, shall negotiate with any appropriate manufacturer of the vaccines for adult pneumococcal disease and influenza for a purchase price of the vaccines. Long-term care facilities shall be entitled to purchase the vaccines at the negotiated price for the purposes specified under KRS 209.552.
- (4) The commissioner of the department shall *make available upon request*~~[report by September 1, 2005, to the Governor, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission on]~~ the number of outbreaks in long-term care facilities for each year due to influenza virus and pneumococcal disease and the number of hospitalizations of long-term care facility residents ~~[each year]~~ due to influenza virus, pneumococcal disease, and associated complications.

➔Section 39. KRS 211.350 is amended to read as follows:

- (1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge. The cabinet shall create and maintain an electronic database for Kentucky on-site wastewater systems information, which for each system shall include but not be limited to permit application date, permit application status, system installation date, system type, latitude and longitude of system, records of system plan and site evaluations, inspection dates, and the condition of system at time of inspection. The cabinet shall *make data from this system available upon request*~~[within twenty-four (24) months of July 12, 2006, annually report to the Governor and the Legislative Research Commission on the status of on-site systems statewide, including numbers and types of systems, summaries of conditions of systems, geographic distribution, observations of trends, and recommendation for future protection of public health and safety with on-site sewage disposal systems].~~
- (2) The Department for Public Health shall maintain a current list of approved and experimental on-site wastewater treatment technologies and greywater technologies, which the department shall make available, along with guidance and expertise, to local health departments. Local health departments shall provide the list of approved technologies to on-site wastewater professionals and permit applicants. With respect to on-site sewage disposal systems that utilize greywater to reduce total daily waste flows, the local health department shall inform the permit applicant, at the time of making an application to construct an on-site sewage disposal system that utilizes greywater to reduce daily waste flows, of the opportunity to consult with the environmental health program evaluators in the Division of Public Health Protection and Safety regarding the administrative regulations, permit requirements, and permissible system designs for inclusion and use of greywater.

- (3) Site evaluations shall be completed by the local health department within fifteen (15) working days of receipt of the application. If further information is required, the local health department shall promptly notify the applicant and shall have an additional ten (10) working days after that submittal of additional information in which to evaluate and issue or deny the permit. It shall be the responsibility of the property owner or owner's agent to protect and maintain the suitability of an approved site and to notify the local health department for a reinspection if site conditions substantively change. If a site previously determined to be suitable is thereafter declared unsuitable by the local health department, remedial measures shall be provided in writing to the property owner or owner's agent within fifteen (15) working days.
- (4) After the conclusion of the site evaluation, the local health department shall, upon request, provide a list of all options that may be approved for the property, including new and emerging technologies. It shall be the responsibility of the owner of advanced treatment, alternative, experimental, or new and emerging technology systems to contract with a management entity, certified system operator, or trained system operator to develop and implement an approved operations and maintenance plan specific to, and appropriate for, the approved system.
- (5) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system including those systems that utilize greywater for reductions in daily waste flows for the person, firm, or corporation and apply for the permit from the local health department. The final systems installation inspection shall be performed by the local health department as soon as practicable. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm. Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.
- (6) A local health department that issues a permit for an on-site sewage disposal system, including systems that utilize greywater to reduce total daily waste flows, based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.
- (7) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system, including those systems that utilize greywater to reduce total daily waste flows, that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, agent, or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.
- (8) No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Energy and Environment Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.
 - (a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.
 - (b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.
 - (c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.

- (9) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the cabinet for site evaluation and system design. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (10) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.
- (11) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary, except that administrative regulations that govern total daily waste flows shall be updated in accordance with KRS 211.351. The secretary may issue additional regulations necessary to carry out the purposes of this section.
- (12) Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.
- (13) As used in this section:
 - (a) "Blackwater" means wastewater containing liquid or solid waste generated through use of a urinal, water closet, garbage disposal, or similar sanitary fixture; and
 - (b) "Greywater" means wastewater generated by hygiene activities, including but not limited to wastewater from laundry, lavatory sinks, and showers, but shall exclude kitchen sinks and food preparation sinks. "Greywater" does not include blackwater.

➔Section 40. KRS 211.494 is amended to read as follows:

- (1) A comprehensive statewide trauma care program shall be established within the Department for Public Health. The statewide trauma care program shall consist of, at a minimum, a statewide trauma care director and a state trauma registrar funded through available federal funds or, to the extent that funds are available, by the trauma care system fund established in KRS 211.496. The department may contract with outside entities to perform these functions.
- (2) The statewide trauma care system shall address, at a minimum, the following goals:
 - (a) To reduce or prevent death and disability from trauma without regard to the patient's insurance coverage or ability to pay for services;
 - (b) To provide optimal care for trauma victims by utilization of best practices protocols and guidelines;
 - (c) To minimize the economic impact of lost wages and productivity for trauma patients; and
 - (d) To contain costs of trauma care.
- (3) (a) The Department for Public Health shall establish an advisory committee to assist in the development, implementation, and continuation of its duties.

~~1. (b) The advisory committee shall consist of eighteen (18) members to be~~~~as follows:~~

~~1. Sixteen (16) of the members shall be~~ appointed by the secretary of the Cabinet for Health and Family Services and shall be composed of representatives from the following agencies and organizations:

 - 1.~~(a)~~ The Department for Public Health;
 - 2.~~(b)~~ The Kentucky Board of Medical Licensure;
 - 3.~~(c)~~ The Kentucky Board of Nursing;

- ~~4.4.~~ The Kentucky Board of Emergency Medical Services;
 - ~~5.5.~~ The Kentucky Medical Association;
 - ~~6.6.~~ The Kentucky Hospital Association;
 - ~~7.7.~~ The Kentucky Committee on Trauma of the American College of Surgeons;
 - ~~8.8.~~ One (1) representative from each verified Level I trauma center;
 - ~~9.9.~~ One (1) hospital representative from a Level II verified trauma center, one (1) hospital representative from a Level III verified trauma center, and one (1) hospital representative from a Level IV verified trauma center. The Kentucky Hospital Association shall submit recommendations to the secretary for each of the three (3) members appointed under this subdivision;
 - ~~10.10.~~ The Kentucky Chapter of the American College of Emergency Physicians;
 - ~~11.11.~~ The Kentucky Chapter of the Emergency Nurses Association;
 - ~~12.12.~~ The Kentucky Transportation Cabinet; ~~and~~
 - ~~13.13.~~ Two (2) members at large, one (1) of whom shall be a health care consumer; ~~and~~
 - ~~14.14.~~ One (1) representative with extensive experience in injury prevention programs; and
 - ~~15.15.~~ One (1) representative with pediatric trauma experience.
- ~~Two (2) members shall be appointed by the Governor as follows:~~
- ~~a.14.~~ One (1) representative with extensive experience in injury prevention programs; and
 - ~~b.15.~~ One (1) representative with pediatric trauma experience.
- (c) Members of the advisory committee shall serve for a period of four (4) years and shall serve until a successor is appointed, except that initial terms shall be staggered and one-third (1/3) of the members shall be appointed to four (4) year terms, one-third (1/3) of the members shall be appointed to three (3) year terms, and one-third (1/3) of the members shall be appointed for two (2) year terms.
 - (d) The advisory committee shall meet at least on a quarterly basis. The committee shall elect a chair, a vice chair, and a secretary from among its members and adopt rules of governance at the first meeting in each fiscal year. The first meeting of the advisory committee shall occur before September 30, 2008.
 - (e) Appointed members shall serve without compensation but may receive reimbursement for actual and necessary expenses relating to the duties of the advisory committee in accordance with state regulations relating to travel reimbursement.
 - (f) Expenses associated with the advisory committee shall be paid by the trauma care system fund established in KRS 211.496, to the extent funds are available.
- (4) The statewide trauma care director and the advisory committee shall develop and implement a statewide trauma care system, integrated with the public health system for injury prevention, that recognizes levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the Commonwealth. The statewide trauma care system shall include but is not limited to:
 - (a) Development and implementation of trauma prevention and education initiatives;
 - (b) Facilitation of appropriate education and continuing education about trauma care and procedures for physicians, nurses, and emergency medical services personnel;
 - (c) Development and statewide distribution of guidelines and protocols for the care and treatment of trauma victims that include the needs of special populations and are fully integrated with all available resources, including but not limited to emergency medical services, physicians, nurses, and hospitals;
 - (d) Voluntary hospital trauma center verification through the American College of Surgeons or the Department for Public Health;
 - (e) Local and regional triage and transport protocols for use by the Kentucky Board of Emergency Medical Services, emergency medical services providers, and emergency rooms; and
 - (f) Continuing quality assurance and peer review programs.
 - (5) The Department for Public Health or the statewide trauma care director and the advisory committee established in this section shall coordinate activities related to the care of trauma patients with other state agencies and boards that are directly or indirectly involved with care of injured persons. Upon request of the

Department for Public Health or the statewide trauma care director, other state agencies and boards shall assist and facilitate the development and implementation of a statewide trauma care system.

- (6) Data obtained through a trauma registry or other data collected pursuant to KRS 211.490 to 211.496 shall be confidential and for use solely by the Department for Public Health, the statewide trauma care director, the advisory committee, and persons or public or private entities that participate in data collection for the trauma registry. Personal identifying information that is collected for use in the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.
- (7) The statewide trauma care director shall report *information*~~[by December 1 of each year to the Interim Joint Committee on Health and Welfare]~~ on the status of the development and implementation of the statewide trauma system *upon request*.
- (8) The Department for Public Health may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 41. KRS 211.502 is amended to read as follows:

The Kentucky Spinal Cord and Head Injury Research Board shall:

- (1) Formulate policies and procedures necessary to carry out the provisions of KRS 211.500 to 211.504;
- (2) Promulgate administrative regulations necessary to carry out the provisions of KRS 211.500 to 211.504 and to ensure proper expenditure of state funds appropriated for the purposes of KRS 211.500 to 211.504;
- (3) Review and authorize spinal cord and head injury research projects and programs to be undertaken and financed under the provisions of KRS 211.500 to 211.504;
- (4) Review and approve all progress and final research reports on projects authorized under the provisions of KRS 211.500 to 211.504;
- (5) Ensure that state funds, appropriated for spinal cord and head injury research by KRS 211.504 or any other act, are not diverted to any other use; and
- (6) Provide ~~[the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 30 of each year showing]~~ the status of funds appropriated under the provisions of KRS 211.504 for spinal cord and head injury research and the progress of the board in terms of the results of its spinal cord and head injury research efforts *upon request*.

➔Section 42. KRS 211.590 is amended to read as follows:

The Breast Cancer Research and Education Trust Fund Board created by KRS 211.585 shall:

- (1) Develop a written plan for the expenditure of trust funds made available under KRS 211.580. The initial plan shall be completed on or before October 1, 2005, and shall be updated on an annual basis on or before October 1 of each year thereafter. The plan shall, at a minimum, include the following:
 - (a) A *program* summary~~[of existing breast cancer education, awareness, treatment, and screening programs provided to residents of Kentucky by type of program and by geographic area;~~
 - ~~(b) A needs assessment for the Commonwealth of Kentucky that identifies additional programs that are needed by program type and geographic area, with support for why the identified programs are needed];~~
 - and
 - ~~(b)(c)~~ A prioritized list of programs and research projects that the board will address with funding available through the competitive grant program established under subsection (2) of this section;
- (2) Promulgate administrative regulations to establish a competitive grant program to provide funding to not-for-profit entities, educational institutions, and government agencies in Kentucky offering programs or services in the areas of breast cancer research, education, awareness, treatment, and screening.
 - (a) The grant program shall give preference to programs proposing to serve the medically underserved population.
 - (b) The grant program shall provide funding to projects and programs in accordance with the priorities established in the plan developed under subsection (1) of this section.
 - (c) The administrative regulations shall, at a minimum:
 1. Establish an application process and requirements;

2. Set forth program and outcome measurement requirements;
 3. Establish an application review and award process; and
 4. Provide monitoring, oversight, and reporting requirements for funded programs;
- (3) Promulgate administrative regulations necessary to carry out the provisions of KRS 211.580 to 211.590; and
 - (4) Provide **information upon request that shall**~~[to the Governor and the Legislative Research Commission an annual report by October 1 of each year. The report shall]~~ include **but not be limited to:**
 - (a) The plan developed under subsection (1) of this section for the expenditure of funds for the current and next fiscal year;
 - (b) A summary of the use and impact of prior year funds;
 - (c) A summary of the activities of the board during the prior fiscal year; and
 - (d) Any recommendations for future initiatives or action regarding breast cancer research, education, awareness, treatment, and screening.

➔Section 43. KRS 211.902 is amended to read as follows:

- (1) Every physician, nurse, hospital administrator, director of a clinical laboratory, or public health officer who receives information of the existence of any person found or suspected to have a two and three-tenths (2.3) micrograms per deciliter of whole blood level of lead in his or her blood shall report the information to the cabinet within seven (7) days and to the local or district health officer in approved electronic format as prescribed by administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A. The contents of the report shall include but not be limited to the following information:
 - (a) The full name and address of the person tested;
 - (b) The date of birth of such person;
 - (c) The type of specimen and the results of the appropriate laboratory tests made on such person; and
 - (d) Any other information about such person deemed necessary by the cabinet to carry out the provisions of this section.

Any physician, nurse, hospital administrator, director of clinical laboratory, public health officer, or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from the making of such report.

- (2) Notwithstanding the requirements of subsection (1) of this section, a clinical or research laboratory shall not be fined or otherwise disciplined for failure to report required information to the cabinet if the information was not provided by the medical professional obtaining the blood sample.
- (3) The secretary shall maintain comprehensive records of all reports submitted pursuant to KRS 211.900 to 211.905 and 211.994. Records shall be analyzed and geographically indexed by county annually in order to determine the location of areas with a high incidence of elevated blood lead levels reported. The records and analysis shall be public record and provided **upon request**~~[annually by October 1 to the Governor, the General Assembly, the Legislative Research Commission, and the Lead Poisoning Prevention Advisory Committee]~~; provided, however, that the name of any individual shall not be made public unless the secretary determines that such inclusion is necessary to protect the health and well-being of the affected individual.
- (4) When an elevated blood lead level is reported to the cabinet, it shall inform such local boards of health, local health departments, and other persons and health organizations as deemed necessary.

➔Section 44. KRS 214.187 is amended to read as follows:

- (1) The Department for Public Health shall develop a statewide education, awareness, and information program on hepatitis C. The hepatitis C education, awareness, and information program may be incorporated into other existing health education programs. The Department for Public Health may make available on its Internet Web site protocols, guidelines, and materials for hepatitis C education, awareness, and information programs that increase the understanding of the disease among general and high-risk populations.
- (2) The hepatitis C education, awareness, and information program may include material to specifically address individuals who may be at high risk of infection, including but not limited to law enforcement officials, corrections personnel, prisoners, veterans, individuals who received blood transfusions prior to 1992,

hemophiliacs, students, and minority communities. The program may utilize education materials developed by health-related companies and community-based or national advocacy organizations. The program may include but not be limited to counseling, patient support groups, and existing hotlines for consumers.

- (3) In developing the hepatitis C education, awareness, and information program, the department shall consult the University of Kentucky College of Medicine, the University of Louisville School of Medicine, the Pikeville College School of Osteopathic Medicine, the American Liver Foundation, the Centers for Disease Control and Prevention, and any other scientific, medical, or advocacy organizations to develop the protocols and guidelines for the hepatitis C education, awareness, and information program. The protocols and guidelines may include but are not limited to the following:
 - (a) The risk factors associated with hepatitis C acquisition and transmission;
 - (b) The most recent scientific and medical information on hepatitis C prevention, detection, diagnosis, treatment, and therapeutic decision making;
 - (c) Tracking and reporting of acute cases of hepatitis C by public health officials;
 - (d) Protocols for public safety and health care workers who come in contact with hepatitis C patients; and
 - (e) Surveillance programs to determine the prevalence of hepatitis C in ethnic and other high-risk populations.
- (4) The Department for Public Health may coordinate with the Department of Veterans' Affairs and the Department of Corrections to establish specific recommendations for the hepatitis C education, awareness, and information program. The protocols and guidelines established by the Department for Public Health, the Department of Corrections, and the Department of Veterans' Affairs may include topics specified in subsection (3) of this section and may include but are not limited to protocols within state agencies to enable departments to provide appropriate treatment for individuals with hepatitis C, protocols for the education of state agency officials and other employees who work with individuals with hepatitis C, and protocols within the Department of Corrections to provide written hepatitis C information to prisoners on the date of their probation, parole, or release.
- (5) The Department for Public Health shall *make information*~~report~~ on the hepatitis C education, awareness, and information program *available upon request*~~to the Interim Joint Committee on Health and Welfare by December 1, 2006, and every six (6) months thereafter, or upon request of the committee~~.

➔Section 45. KRS 214.452 is amended to read as follows:

The following policies shall apply to blood establishments and to donors of blood:

- (1) All blood establishments within the Commonwealth shall be licensed by the United States Food and Drug Administration and remain in compliance with all applicable federal regulations. The Cabinet for Health and Family Services shall, under administrative regulations promulgated pursuant to KRS Chapter 13A, establish fees necessary to cover the cost of and adhere to a schedule for regular inspection, by the Office of the Inspector General of the Cabinet for Health and Family Services, of all blood establishments within the Commonwealth to ascertain whether each blood establishment is licensed and in compliance with KRS 214.450 to 214.464 and KRS 214.468. The Office of the Inspector General shall commence its inspection program of blood establishments no later than September 1, 1994. ~~The Office of the Inspector General of the Cabinet for Health and Family Services shall annually, by no later than September 1, submit a written report to the Interim Joint Committee on Health and Welfare on the compliance of blood establishments with KRS 214.450 to 214.464 and KRS 214.468.~~
- (2) All blood establishments shall test blood for the human immunodeficiency virus and for any known causative agent for any blood-borne communicable disease, using tests approved and required, for purposes of blood donation, by the United States Food and Drug Administration.
- (3) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility, or health-care provider the blood for transfusion to:
 - (a) Secure donor consent and a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if the potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome

recognized by the United States Centers for Disease Control; or has a blood-borne communicable disease;

- (b) Provide a means for a potential donor to self-elect not to donate blood;
 - (c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood-borne communicable disease;
 - (d) Post a sign in the blood establishment which is visible to all potential donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood-borne communicable disease or who have one (1) or more risk factors for the human immunodeficiency virus as determined by the United States Centers for Disease Control, are prohibited by law from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."
- (4) The provisions of this section shall not be construed to impose requirements which are in conflict with donor eligibility requirements set out in United States Food and Drug Administration or American Association of Blood Banks standards.

➔Section 46. KRS 214.554 is amended to read as follows:

- (1) There is established within the department a Breast Cancer Screening Program for the purposes of:
 - (a) Reducing morbidity and mortality from breast cancer in women through early detection and treatment; and
 - (b) Making breast cancer screening services of high quality and reasonable cost available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.
- (2) Services provided under the Breast Cancer Screening Program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening. The program may also provide referral services for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.
- (3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of women throughout the Commonwealth. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.
- (4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.
- (5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for Public Health which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, the director of the Division of Women's Health, one (1) radiologist with preference given to one who has been fellowship-trained in breast diagnostics and who shall be appointed by the Governor, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.
- (6) The commissioner of the Department for Public Health, in consultation with the Breast Cancer Advisory Committee, shall *provide data and analysis upon request*~~annually, but no later than November 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare~~ on the:

- (a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer morbidity and mortality;
- (b) Development of quality assurance guidelines, including timetables, for breast cancer screening under this section, and monitoring of the manner and effect of implementation of those guidelines; and
- (c) Funds appropriated, received, and spent for breast cancer control by fiscal year.

➔Section 47. KRS 216.2923 is amended to read as follows:

- (1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:
 - (a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;
 - (b) Apply for and accept any funds, property, or services from any person or government agency;
 - (c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and
 - (d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.
- (2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:
 - (a) ~~{Publish and make available information that relates to the health care financing and delivery system, information on charges for health care services and the quality and outcomes of health care services, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;~~
 - ~~(b)~~ Periodically participate in or conduct analyses and studies that relate to:
 - 1. Health-care costs;
 - 2. Health-care quality and outcomes;
 - 3. Health-care providers and health services; and
 - 4. Health insurance costs;
 - ~~(b){(c)}~~ Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929; *and*
 - ~~(c){(d)}~~ Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; *and*
 - ~~(e)~~ No later than thirty (30) days after July 15, 2005, appoint and convene a permanent cabinet advisory committee. The committee shall advise the secretary on the collection, analysis, and distribution of consumer oriented information related to the health care system, the cost of treatment and procedures, outcomes and quality indicators, and policies and regulations to implement the electronic collection and transmission of patient information (e health) and other cost saving patient record systems. At a minimum, the committee shall be composed of the following:
 - 1. ~~Commissioner of the Department for Public Health;~~
 - 2. ~~Commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities;~~
 - 3. ~~Commissioner of the Department for Medicaid Services;~~
 - 4. ~~Commissioner of the Department of Insurance;~~
 - 5. ~~Physician representatives;~~
 - 6. ~~Hospital representatives;~~
 - 7. ~~Health insurer representatives;~~
 - 8. ~~Consumers; and~~

~~9. Nonphysician health care providers.~~

~~(f) The cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters, including a review of administrative regulations promulgated pursuant to KRS Chapter 13A, proper interpretation of the data, and the most cost efficient manner in which it should be published and disseminated to the public, state and local leaders in health policy, health facilities, and health care providers. The Health Services Data Advisory Committee shall review and make recommendations to the cabinet advisory committee regarding exploration of technical matters related to data from other health care providers and shall make recommendations on methods for risk adjusting any data prepared and published by the cabinet.~~

- (3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars (\$500) for each violation for knowingly failing to file a report as required under KRS 216.2920 to 216.2929. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

➔Section 48. KRS 216.2927 is amended to read as follows:

- (1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the cabinet or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:
- (a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence;
 - (b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence; and
 - (c) Data considered by the cabinet to be incomplete, preliminary, substantially in error, or not representative, the release of which could produce misleading information.
- (2) Health-care providers submitting required data to the cabinet shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the cabinet complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.
- (3) (a) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the cabinet shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public.
- (b) Persons or organizations requesting use of the data shall agree to abide by a public-use data agreement and by HIPPA privacy rules referenced in 45 C.F.R. Part 164. The public-use data agreement shall include, at a minimum, a prohibition against the sale or further release of data, and guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges.
- (c) Single copies of the printed data shall be made available to individuals at no cost. The cabinet may impose a fee for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission.
- ~~[(d) The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data under this subsection and shall make recommendations to the cabinet advisory committee established under KRS 216.2923.]~~
- (4) Collection of data about individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately.
- (5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.

- (6) Only designated cabinet staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.
- (7) Any employee of the cabinet who violates any provision of this section shall be fined not more than five hundred dollars (\$500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

➔Section 49. KRS 216.2929 is amended to read as follows:

- (1)
 - (a) The Cabinet for Health and Family Services shall make available on its Web site information on charges for health-care services at least annually in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.
 - (b) Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by all charges, and shall be risk-adjusted~~—according to recommendations of the Health Services Data Advisory Committee~~.
 - (c) The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data.
 - (d) The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (c) of this subsection.
- (2)
 - (a) The cabinet shall make information available on its Web site at least annually describing quality and outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.
 - (b)
 - 1. The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or
 - 2. The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:
 - a. The Centers for Medicare and Medicaid Services;
 - b. The Agency for Healthcare Research and Quality;
 - c. The Joint Commission; and
 - d. Other organizations that publicly report relevant outcome data for Kentucky providers~~—as determined by the Health Services Data Advisory Committee~~.
 - (c) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.
- (3) Any report the cabinet disseminates or refers the public to shall:
 - (a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;
 - (b) Meet the requirements of subsection (1)(c) of this section;
 - (c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and
 - (d) Explain any limitations of the data and how the data should be used by consumers.

- (4) ~~[The cabinet shall at least annually, on or before October 1, submit a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.~~
- (5) ~~The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on matters pertaining to comparative health care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health care costs, and any recommendations regarding its data collection and dissemination activities.~~
- (6) ~~[The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.~~
- (5)(7) The **report required under subsection (4)**~~[reports required under subsections (4), (5), and (6)]~~ of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor.

➔Section 50. KRS 216.941 is amended to read as follows:

- (1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, or 314 shall be necessary for the voluntary provision of health care services by any person who:
 - (a) Is a charitable health care provider as defined in KRS 216.940; or
 - (b) Does not regularly practice in the Commonwealth.
- (2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.
- (3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health and Family Services by filing a registration form that shall contain the following information:
 - (a) The name, address, and phone number of the charitable health care provider;
 - (b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;
 - (c) The name, principal office address, phone number, and principal officer of any sponsoring organization;
 - (d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;
 - (e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and
 - (f) Other information as the cabinet may require by administrative regulation.
- (4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.
- (5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.
- (6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish

these records upon the request of the Cabinet for Health and Family Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

- (7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.
- (8) The cabinet shall report ~~to the General Assembly~~ the name and location of individuals registered with the cabinet as charitable health care providers *upon request*, ~~by October 1 of each year~~.

➔Section 51. KRS 403.705 is amended to read as follows:

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.
- (2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under KRS 421.570, family service workers employed by the Cabinet for Health and Family Services, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.
- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.
- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with *nationally recognized practice* ~~the model protocol issued by the Governor's Council on Domestic Violence and Sexual Assault~~.
- (5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.
- (6) Domestic violence fatality review teams of local domestic violence coordinating councils may:
 - (a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;
 - (b) Evaluate the effectiveness of local prevention and intervention strategies; and
 - (c) Recommend, to the *appropriate state or local governmental agency* ~~Governor's Council on Domestic Violence and Sexual Assault~~, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.
- (8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

➔Section 52. KRS 403.707 is amended to read as follows:

- (1) The ~~Council on Domestic Violence and Sexual Assault shall create a~~ Sexual Assault Response Team Advisory Committee *is established*.
- (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner's designee.

- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
- (a) The executive director of the Kentucky Board of Nursing or the executive director's designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director's designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director's designee;
 - (d) The executive director of the Kentucky Association of Children's Advocacy Centers;
 - (e) The director of the Department of Kentucky State Police Crime Lab;
 - (f) ~~{The chief medical examiner or the chief medical examiner's designee;~~
 - ~~(g) — {The commissioner of the Department for Community Based Services or the commissioner's designee;~~
 - (g)~~{(h)}~~ The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h)~~{(i)}~~ A sexual assault nurse examiner *appointed by the secretary of the Cabinet for Health and Family Services*~~{serving on the Governor's Council on Domestic Violence and Sexual Assault};~~
 - (i)~~{(j)}~~ A representative from a sexual assault response team *appointed by the executive director of the Kentucky Association of Sexual Assault Programs*~~{serving on the Council on Domestic Violence and Sexual Assault};~~
 - (j)~~{(k)}~~ A physician appointed by the *secretary of the Cabinet for Health and Family Services*~~{co-chairs of the Council on Domestic Violence and Sexual Assault};~~ and
 - (k)~~{(l)}~~ A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the *Attorney General*~~{co-chairs of the Council on Domestic Violence and Sexual Assault}~~.
- (4) Members appointed under subsection (3)(h) to (k)~~{(i) to (l)}~~ of this section shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
- (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide assistance to each regional rape crisis center, as designated by the Cabinet for Health and Family Services, in establishing a regional sexual assault response team;
 - (e) Develop model policies for law enforcement agencies related to handling sexual assault examination kits and investigating sexual assaults with a victim-centered, evidence-based approach;
 - (f) By January 1, 2018, report to the General Assembly on the results of the analysis of previously untested sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory pursuant to 2016 Ky. Acts ch. 58, sec. 1, including whether analysis of those kits led to the identification and prosecution of suspects and the cost to society of the offenses committed by the suspects identified;
 - (g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly and to the secretary of the Justice and Public Safety Cabinet on the number of sexual assaults reported, the number of sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year;
 - (h) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and

- (i) Recommend to the *appropriate state agency*~~[Council on Domestic Violence and Sexual Assault]~~ any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

➔Section 53. KRS 403.7505 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.
- (2) The standards created by the cabinet shall be based on the following principles:
 - (a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;
 - (b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and
 - (c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.
- (3) The standards created by the cabinet shall address the following:
 - (a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;
 - (b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;
 - (c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;
 - (d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;
 - (e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;
 - (f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;
 - (g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and
 - (h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.
- (4) The cabinet shall:
 - (a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and
 - (b) Collect data from certified providers, which shall include demographic information and clinical characteristics on offenders served, number of offenders admitted into treatment and discharge conditions, total clinical services provided to offenders, and other information necessary to monitor the safety and effectiveness of services provided, to be *provided upon request*~~[compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission]~~.
- (5) No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders are being provided by a person or entity that does not possess valid certification under this chapter, the cabinet may institute proceedings, in the Circuit Court of the

county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

- (6) Any person certified under this section shall submit quarterly to the cabinet:
 - (a) Demographic information and clinical characteristics on offenders served;
 - (b) Number of offenders admitted into treatment and discharge conditions;
 - (c) Total clinical services provided to offenders; and
 - (d) Other information as required by administrative regulation.

➔Section 54. KRS 199.8996 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall prepare the following reports ~~to the General Assembly~~ on child-care programs, and shall make them available *upon request* ~~to the public~~:
 - (a) *State and federally mandated reports on the child-care funds administered by the Department for Community Based Services; and*
 - (b) *Reports on the child-care subsidy programs, training, resource and referral, and similar activities upon request by the public, the Early Childhood Advisory Council, or the Child Care Advisory Council, to the extent resources are available within the cabinet and as permitted under the Kentucky Open Records Act, KRS 61.870 to 61.884, and state and federal laws governing the protection of human research subjects* ~~[A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;~~
 - ~~(b) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;~~
 - ~~(c) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and~~
 - ~~(d) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties].~~
- (2) ~~[The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child-care with the Early Childhood Advisory Council and the Legislative Research Commission.~~
- ~~(3) The cabinet shall *include* [file an annual report on] the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities *within its half-year block grant status reports* [with the Early Childhood Advisory Council and the Legislative Research Commission].~~
- ~~(3)~~~~(4)~~ By November 1, 2017, the Cabinet for Health and Family Services and the Early Childhood Advisory Council shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on recommendations and plans for sustaining the quality-based graduated early care and education program after the depletion of federal Race to the Top-Early Learning Challenge grant funds.

➔Section 55. KRS 211.596 is amended to read as follows:

- (1) The Pediatric Cancer Research Trust Fund Board is hereby created for the purpose of administering and distributing funds from the trust created under KRS 211.595. The board shall be composed of nine (9) members to be appointed as follows:
 - (a) A specialist in pediatric oncology nominated by *Norton* ~~[the Kosair]~~ Children's Hospital to be appointed by the Governor;
 - (b) A specialist in pediatric oncology nominated by the University of Kentucky Children's Hospital to be appointed by the Governor;
 - (c) A representative nominated by Kentucky Chapters of the Leukemia and Lymphoma Society to be appointed by the Governor;
 - (d) A representative nominated by Kentucky offices of the American Cancer Society to be appointed by the Governor;
 - (e) Three (3) citizens, one (1) of whom shall be a pediatric cancer survivor, or parent thereof, to be appointed by the Governor from a list of six (6) citizens nominated by Kentucky offices of the American Cancer Society;

- (f) The secretary of the Cabinet for Health and Family Services, or the secretary's designee; and
- (g) The commissioner of the Department for Public Health, or the commissioner's designee.
- (2) The board shall be attached to the Cabinet for Health and Family Services for administrative purposes.
- (3) The secretary of the Cabinet for Health and Family Services shall convene the first meeting of the board within sixty (60) days of June 24, 2015.
- (4) Board members shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.
- (5) The term of each appointed member shall be four (4) years.
- (6) A member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.
- (7) A majority of the full membership of the board shall constitute a quorum.
- (8) At the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.
- (9) The board shall meet at least two (2) times annually, but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.

➔Section 56. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

- (1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:
 - 1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and
 - 2. Benefit coverage is therefore denied, reduced, or terminated.
- (b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;
- (2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;
- (3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;
- (4) "Covered person" means a person covered under a health benefit plan;
- (5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;
- (6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or

deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; or limited health service benefit plans; and for purposes of KRS 304.17A-600 to 304.17A-633 includes short-term coverage policies;

- (7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627;
- (8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;
- (9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;
- (10) "Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the *Accreditation Association for Ambulatory Health Care (AAAHC)*, the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission, or any other organization identified by the department;
- (11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;
- (12) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;
- (13) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;
- (14) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria;
- (15) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review;
- (16) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;
- (17) (a) "Urgent care" means health care or treatment with respect to which the application of the time periods for making nonurgent determination:
 1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or
 2. In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the care or treatment that is the subject of the utilization review; and
 (b) "Urgent care" shall include all requests for hospitalization and outpatient surgery;
- (18) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review; and
- (19) "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

➔Section 57. 2008 Regular Session House Joint Resolution 17, Section 6, is hereby repealed.

➔Section 58. The following KRS sections are repealed:

- 11.170 Kentucky Agriculture Resources Development Authority.
- 15.290 Establishment of Child Support Enforcement Commission.
- 18A.400 Purpose of KRS 18A.400 to 18A.450.
- 18A.405 Personnel Steering Committee.
- 18A.410 Duties of Personnel Steering Committee.
- 18A.415 Discontinuance of pilot personnel program.
- 18A.420 Approval of pilot personnel programs.
- 18A.425 Reports from pilot agencies and the committee.
- 18A.430 Employment manual -- Administrative regulations -- Expiration of pilot program.
- 18A.435 Employee request for transfer.
- 18A.440 Bases for organizational units for pilot programs.
- 18A.445 Use of savings attributed to agency's pilot personnel program -- Authority for administrative regulations.
- 18A.450 Development of pilot programs by Department of Workforce Investment or Department of Kentucky State Police.
- 36.145 Kentucky National Guard and Reserve Employers' Council -- Membership -- Meetings.
- 36.146 Mission of Kentucky National Guard and Reserve Employers' Council.
- 64.741 Definitions for KRS 64.742 to 64.745.
- 64.742 Public Officials Compensation Commission.
- 64.743 Organization -- Compensation -- Staff.
- 64.744 Studies -- Recommendations.
- 64.745 Reports.
- 146.650 Legislative findings regarding state's natural history -- Purposes of KRS 146.650 to 146.666.
- 146.652 Kentucky Natural History Museum -- Board of directors -- Appointments, terms, and meetings.
- 146.654 Powers and duties of board.
- 146.656 Director to administer museum -- Qualifications
- 146.658 Duties of director.
- 146.660 Administrative mission units of museum -- Associate directors.
- 146.662 Curation and science unit -- Functions -- Qualifications of associate director.
- 146.664 Education and events unit -- Functions -- Qualifications of associate director.
- 146.666 Exhibits and maintenance unit -- Functions -- Qualifications of associate director.
- 147.580 Southern Growth Policies Agreement.
- 147.585 Lieutenant Governor to be member of board.
- 153.310 Definition for KRS 153.320 to 153.370.
- 153.320 Kentucky Historical Events Celebration Commission -- Members -- Expiration of commission.
- 153.330 Commission to establish executive committee -- Meetings.
- 153.340 Commission's purpose -- Reports -- Duties.
- 153.350 Powers of commission.
- 153.360 Commission members' expenses -- Compensation -- Disbursement of funds.
- 153.370 Commission membership not to be incompatible with state office.

- 153.386 Definition.
- 153.388 Kentucky Bicentennial Commission created -- Appointment of members -- Terms.
- 153.390 Duties of the commission.
- 153.392 Powers of commission.
- 153.394 Executive committee -- Meetings.
- 153.396 Reimbursement for expenses.
- 153.398 Kentucky bicentennial celebration trust fund.
- 158.650 Definitions for KRS 158.680 to 158.710. (Expired)
- 158.680 State Advisory Committee for Educational Improvement. (Expired)
- 158.685 Standards of student, program, service, and operational performance to be established -- Educationally deficient school district -- Action to eliminate deficiency -- Education development district. (Expired)
- 158.710 Responsibilities and functions of educationally deficient districts and education development districts -- Plans required -- Reports required. (Expired)
- 164.385 Continuing education program for midlevel health care practitioners.
- 164.6015 Kentucky Innovation Commission -- Members -- Duties -- Support staff.
- 171.750 Kentucky Capitol Centennial Commission.
- 171.751 Duties of Kentucky Capitol Centennial Commission.
- 171.752 Expiration of Kentucky Capitol Centennial Commission.
- 171.755 Kentucky War of 1812 Bicentennial Commission.
- 171.757 Commission's powers.
- 171.814 Underground Railroad Advisory Council -- Members -- Duties -- Meetings.
- 177.951 Kentucky Auto and Truck Recyclers Licensing Advisory Board -- Members -- Meetings -- Functions.
- 198B.250 Architectural Barriers Advisory Committee.
- 200.100 Cabinet to investigate status of children -- Report to Governor.
- 205.465 Report by cabinet.
- 205.6336 Certification to Interim Joint Committee on Appropriations and Revenue of general fund savings realized from procedures adopted to control health-care costs -- Transfer of savings to trust fund.
- 205.6491 Advisory council.
- 211.480 Legislative findings.
- 211.481 Kentucky Cardiovascular Disease Initiative -- Goals -- KCDI board.
- 211.482 Business plans and benchmark measures -- Presentation of plans to Interim Joint Committees -- Updates to be provided -- Public-private collaboration.
- 211.483 KCDI fund.
- 211.735 Definitions for KRS 211.735 to 211.739.
- 211.736 Creation of Kentucky Diabetes Research Board.
- 211.737 Creation of Kentucky diabetes research trust fund.
- 211.738 Application and review of proposed research projects.
- 211.739 Granting of research contracts -- Reports -- Published research documents -- Acknowledgment of funding source.
- 216.261 Kentucky Health Care Infrastructure Authority -- Responsibilities -- Funding -- Annual report.
- 216.263 Definitions.

- 216.265 Kentucky e-Health Network Board -- Membership -- Terms -- Employees -- Immunity from liability -- Reimbursement of expenses -- Meetings -- Committees or subcommittees -- Reorganization.
- 216.267 Duties and responsibilities of Kentucky e-Health Network Board -- Permitted functions of the board -- Elements of fully implemented Kentucky e-Health Network.
- 216.269 Ke-HN fund.
- 216.580 Long-Term Care Coordinating Council established.
- 216.583 Long-Term Care Coordinating Council -- Membership of council.
- 216.585 Officer and meetings of council.
- 216.587 Duties of council.
- 216.920 Kentucky Board of Family Health Care Providers.
- 216.925 Midlevel health care practitioner.
- 216B.025 Commission of Health Economics Control in Kentucky.
- 216B.030 Principal office of commission.
- 216B.135 Creation of Task Force on Health Care Cost and Quality.
- 216B.339 Monitoring of establishment of nursing home beds -- Collection of data -- Secretary's report to General Assembly.
- 217.950 License for manufacture of laetrile -- Regulations -- Use in health care facilities licensed by cabinet.
- 217.952 Laetrile not to be sold in interstate commerce, penalty.
- 311.950 Status of laetrile -- May be prescribed, when.
- 311.952 Availability of laetrile to patient.
- 311.954 Manufacture, sale, or distribution permissive.
- 311.956 Prescription and administration by physician.
- 311.958 Written informed request.
- 311.960 Written informed request to be filed with state board.
- 311.962 Physician's liability limited.
- 311.964 Health care facility not to restrict use of laetrile -- Exception.
- 311.966 Laetrile not endorsed as treatment.
- 311.991 Penalty.
- 315.192 Board of Pharmacy not to prohibit sale and dispensing of laetrile.
- 336.162 Kentucky Labor-Management Advisory Council.
- 336.164 Duties of council -- Staff support.
- 342.0012 Workers' Compensation Advisory Council.
- 403.700 Council on Domestic Violence and Sexual Assault -- Membership -- Executive committee -- Duties and responsibilities of council -- Administrative and staff assistance.

➔Section 59. All records, documents, funds, assets, and outstanding liabilities of the Kentucky Cardiovascular Disease Initiative Board, Child Support Enforcement Commission, Diabetes Research Board, Council on Domestic Violence and Sexual Assault, and e-Health Network Board are hereby transferred to the Cabinet for Health and Family Services.

➔Section 60. All records, documents, funds, assets, and outstanding liabilities of the Kentucky Capitol Centennial Commission, Historical Events Celebration Commission, War of 1812 Bicentennial Commission, and the Kentucky Bicentennial Commission are hereby transferred to the Kentucky Heritage Council.

➔Section 61. All records, documents, funds, assets, and outstanding liabilities of the Natural History Museum are hereby transferred to the Tourism, Arts and Heritage Cabinet.

Signed by Governor March 21, 2017.

CHAPTER 81

(HB 284)

AN ACT relating to property valuation and declaring an emergency.

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

➔Section 1. KRS 132.690 is amended to read as follows:

- (1) (a) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards **and procedures** prescribed by the department ~~of Revenue~~ and shall be ~~physically~~ examined no less than once every four (4) years by the property valuation administrator ~~or his assessing personnel~~.
- (b) *For any real property upon which any improvements have been made since the prior examination, the property valuation administrator or his or her deputy shall perform an on-site, in-person visual examination of the real property and the improvements. The examination shall be conducted in a manner approved by the department and for the purpose of gathering any necessary information related to the characteristics of the real property and the improvements for purposes of assessing their value. Any subsequent examination of the real property for purposes of assessing its value by the property valuation administrator or his or her deputy shall be performed by:*
 1. *On-site, in-person visual examination;*
 2. *Use of digital imaging technology as defined by the International Association of Assessing Officer's Standard on Mass Appraisal of Real Property; or*
 3. *Any other examination method approved by the department.*
- (c) In accordance with **standards and** procedures prescribed by the department ~~of Revenue~~, the property valuation administrator shall submit an assessment schedule to the department and shall maintain a record of ~~the physical~~ examination and revaluation for each parcel of real property which **shall include the inspection dates and any**~~includes, in addition to, the inspection dates~~.
- (2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.
- (3) If the property valuation administrator fails to revalue property as required by this section, the department ~~of Revenue~~ shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the department ~~of Revenue~~ to correct the assessment shall have his compensation suspended by the department and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.
- (4) Nothing in this section shall prohibit action by the department ~~of Revenue~~ under the provisions of KRS 133.150 or 132.660 in any year in which the department determines such action to be necessary.

➔Section 2. KRS 133.120 is amended to read as follows:

- (1) (a) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his or her designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045, **or during an extension granted under subsection (2)(d) of this section.**

- (b) 1. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be:
 - a. An attorney;
 - b. A certified public accountant;
 - c. A certified real estate broker;
 - d. A Kentucky licensed real estate broker;
 - e. An employee of the property owner;
 - f. A licensed or certified Kentucky real estate appraiser;
 - g. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
 - h. Any other individual possessing a professional appraisal designation recognized by the department.
- 2. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.
- (d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.
- (e) At the request of the taxpayer, the conference may be held by telephone.
- (2) (a) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals.
- (b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the taxpayer's opinion of the fair cash value of the property.
- (c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045 *or no later than the last day of an extension granted under paragraph (d) of this subsection.*
- (d) *A property valuation administrator may make a written request to the department to extend the deadline in his or her county of jurisdiction to allow the completion of the conferences requested during the inspection period required by subsection (1)(a) of this section and to extend the filing deadline for appeals to the board of assessment appeals. If approved by the department, the deadline for the completion of the conferences requested during the inspection period and filing appeals shall be extended for a period not to exceed twenty-five (25) days from the date of the original filing deadline.*
- (e) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.
- ~~(f)(e)}~~ The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period

provided for in KRS 133.045, *or no later than the last day of an extension granted under paragraph (d) of this subsection*, or upon the written recommendation of the department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he or she so desires, in protest of an increase.

~~(g)(f)~~ Any real property owner who has listed his or her property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he or she believes to be assessed at less than fair cash value, if he or she specifies in writing the individual properties for which the review is sought and factual information upon which his or her request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, *or no later than the last day of an extension granted under paragraph (d) of this subsection*.

~~(h)(g)~~ Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

- (3) (a) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value.
- (b) The department may be present at the hearing and present any pertinent evidence as it pertains to the appeal.
- (c) The taxpayer shall provide factual evidence to support his or her appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the department, or any member of the board, his or her appeal shall be denied.
- (d) This information shall include but not be limited to the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages.
- (e) The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his or her designated deputy and the taxpayer or his or her authorized representative.
- (4) (a) Any person receiving compensation to represent a property owner in an appeal before the board shall be:
 1. An attorney;
 2. A certified public accountant;
 3. A certified real estate broker;
 4. A Kentucky licensed real estate broker;
 5. An employee of the taxpayer;
 6. A licensed or certified Kentucky real estate appraiser;
 7. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice; or
 8. Any other individual possessing a professional appraisal designation recognized by the department.
- (b) A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he or she may have in the matter, including any contingency fee arrangements, except that attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.
- (5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the department.

- (6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he or she so desires, in protest of the action of the property valuation administrator.
- (7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.
- (8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.
- (9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he or she claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and department, may appeal the decision to the Kentucky Board of Tax Appeals. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky Board of Tax Appeals.
- (11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or she the fiscal court shall arrange for substitute representation.
- (12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the department's recording as provided in KRS 61.874.
- (13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

➔Section 3. KRS 133.030 is amended to read as follows:

- (1) The county board of assessment appeals shall convene each year at the county seat no earlier than twenty-five (25) days and no later than thirty-five (35) days following the conclusion of the tax roll inspection period provided for in KRS 133.045. ***When a property valuation administrator has received permission to extend the appeal filing deadline as set out in subsection (2)(d) of Section 2 of this Act, the county board of assessment appeals shall convene no earlier than twenty-five (25) days and no later than thirty-five (35) days after the approved filing deadline.*** ~~[- except that]~~ No meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the Department of Revenue as provided by KRS 132.690 or by the department itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.
- (2) The first regular meeting day of the board shall be devoted to the orientation and training program provided for in KRS 133.020(5), to a review of the assessment of the property valuation administrator and his deputies, and to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.
- (3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day, if there are no appeals to be heard, nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the Department of Revenue upon request of the county judge/executive. Each board member shall be paid one hundred dollars (\$100) for each day he serves. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the State Treasury.

- (4) Members of temporary panels of the board shall serve the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the Department of Revenue. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

➔Section 4. KRS 133.125 is amended to read as follows:

- (1) No later than three (3) working days after the expiration of the inspection period provided for in KRS 133.045, ***or three (3) working days after any extension of a filing deadline for appeals as set out in subsection (2)(d) of Section 2 of this Act,*** the county clerk shall provide a copy to the property valuation administrator of each appeal petition and a summary of the appeals filed with the county board of assessment appeals. The summary shall be in a format, or on a form, provided or approved by the Department of Revenue. The property valuation administrator shall, within three (3) working days of receipt of the summary, prepare and submit to the Department of Revenue a final recapitulation of the real property tax roll incorporating all changes made since the submission of the first recapitulation. Those properties under appeal shall be listed for recapitulation and certification purposes at the value claimed by the taxpayer. After submission of the final recapitulation to the Department of Revenue, assessments shall not be amended except for adjustments ordered by the board and for corrections made under the provisions of KRS 133.110 and KRS 133.130.
- (2) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the Department of Revenue within five (5) days after the adjournment of the board.
- (3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members for their services. On a presentation of a copy of the order, the Finance and Administration Cabinet shall draw a warrant on the State Treasurer in favor of the board members and clerk for the amount due for their services.
- (4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

➔Section 5. KRS 132.220 is amended to read as follows:

- (1) (a) All taxable property and all interests in taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year.
- (b) 1. It shall be the duty of the holder of the first freehold estate in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law.
2. It shall be the duty of all persons owning any tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the department between January 1 and May 15 in each year, except as otherwise prescribed by law.
3. The holder of legal title, the holder of equitable title, and the claimant or bailee in possession of the property on the assessment date as provided by law shall be liable for the taxes thereon, and the property may be assessed in any of their names. But, as between them, the holder of the equitable title shall pay the taxes thereon, whether or not the property is in his or her possession at the time of payment.
4. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.
- (2) Any taxpayer may list his or her property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in

the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the department, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

- (3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his or her employee, or employees of the department may physically inspect, *or inspect using any other method approved by the department*, and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.
- (4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.
- (5)
 - (a) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.546, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated.
 - (b) The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884.
 - (c) If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290.
 - (d) Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.
- (6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the department within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the department. The department shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.
- (7) Each property valuation administrator, under the direction of the department, shall review annually all real property listed with him or her under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

➔Section 6. KRS 133.045 is amended to read as follows:

- (1) The real property tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for thirteen (13) days beginning on the first Monday in May of each year and shall be open for inspection for six (6) days each week, one (1) of which shall be Saturday. In case of necessity, the department may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided in this section. However, the final day of the inspection period shall not be Saturday, Sunday, or a legal holiday.

- (2) The property valuation administrator shall cause to be published once during the week before the beginning of the inspection period, as provided in subsection (1) of this section, in a display type advertisement, the following information:
- (a) The fact that the real property tax roll is open for public inspection;
 - (b) The dates of the inspection period;
 - (c) The times available for public review of the real property tax roll;
 - (d) The fact that any taxpayer desiring to appeal an assessment shall first request a conference with the property valuation administrator to be held prior to or during the inspection period ***or completed during an extension granted under Section 2 of this Act***; and
 - (e) Instructions which provide details on the manner in which a taxpayer who has had a conference with the property valuation administrator may file an appeal, if he is aggrieved by an assessment made by the property valuation administrator.

The cost of the notice shall be paid by the fiscal court of the county. The notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

➔Section 7. Whereas to allow property valuation administrators to potentially take advantage of the provisions of this Act for this tax cycle, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 82

(HB 293)

AN ACT relating to the reorganization of the Kentucky Labor Cabinet.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.

- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.

- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.

1. Office of the Commissioner.
2. Division of Technical and Administrative Support.
3. Division of Mine Permits.
4. Division of Mine Reclamation and Enforcement.
5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas.
7. Division of Mine Safety.
8. Division of Forestry.
9. Division of Conservation.
10. Office of the Reclamation Guaranty Fund.
11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.

- 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.*
 - b. Workers' Claims Legal Division.*
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of ~~[Employment Standards, Apprenticeship, and Mediation]~~.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of *Wages, Hours, and Mediation* ~~[Workers' Compensation Funds]~~.

- (e) Department of Workers' Claims.
 - 1. ***Division of Workers' Compensation Funds***~~{Office of General Counsel for Workers' Claims}~~.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information ***Services***~~{and Research}~~.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. ~~{Workers' Compensation Advisory Council}~~.
 - 9. ~~—~~Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.

- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.

- (c) Office of Administrative Services.
- (d) Office of Public Information.
- (e) Office of Policy and Audit.
- (f) Department for Facilities and Support Services.
- (g) Department of Revenue.
- (h) Commonwealth Office of Technology.
- (i) State Property and Buildings Commission.
- (j) Office of Equal Employment Opportunity and Contract Compliance.
- (k) Kentucky Employees Retirement Systems.
- (l) Commonwealth Credit Union.
- (m) State Investment Commission.
- (n) Kentucky Housing Corporation.
- (o) Kentucky Local Correctional Facilities Construction Authority.
- (p) Kentucky Turnpike Authority.
- (q) Historic Properties Advisory Commission.
- (r) Kentucky Tobacco Settlement Trust Corporation.
- (s) Kentucky Higher Education Assistance Authority.
- (t) Kentucky River Authority.
- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.

1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.

- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 336.020 is amended to read as follows:

- (1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the Division of ~~Employment Standards,~~ Apprenticeship ~~and Mediation,~~ the Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of

Wages, Hours, and Mediation~~[Workers' Compensation Funds]~~. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

- (2) The Department of Workers' Claims shall be headed by a commissioner who is nominated by the Workers' Compensation Nominating Commission, appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.213 and 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, ~~[the Office of General Counsel for Workers' Claims,]~~ the Division of Claims Processing, the Division of Information ~~Services~~~~[and Research]~~, the Division of Security and Compliance, ***the Division of Workers' Compensation Funds***, and the Division of Ombudsman and Workers' Compensation Specialist Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the commissioner and approved by the Governor in accordance with KRS 12.050 and 342.230. The following agencies are attached to the Department of Workers' Claims for administrative purposes only:
 - (a) Workers' Compensation Board; ***and***
 - (b) ~~[Workers' Compensation Advisory Council; and~~
 - ~~(c)]Workers' Compensation Nominating Commission.~~
- (3) The Office of General Counsel for the Labor Cabinet and the Division of Management Services are attached to the Office of the Secretary of the Labor Cabinet.
- (4)
 - (a) ***The Office of General Counsel for the Labor Cabinet shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.***
 - (b) ***The Office of General Counsel shall be divided for administrative purposes into the Workplace Standards Legal Division and the Workers' Claims Legal Division.***
 - (c) ***Each legal division shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.***

➔Section 3. KRS 336.164 is amended to read as follows:

- (1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.
- (2) The council shall not infringe upon or assume the responsibilities, duties or functions of the Labor Cabinet or Cabinet for Economic Development. The council may make recommendations to the Governor and the Legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.
- (3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.
- (4) The secretary of the Labor Cabinet shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he or she shall act as the executive secretary of the council. The director of the Division of ***Wages, Hours, and Mediation***~~[Employment Standards, Apprenticeship and Mediation]~~ shall be responsible for the coordination of such staff and supplies.

➔Section 4. KRS 336.165 is amended to read as follows:

The Division of ***Wages, Hours,***~~[Employment Standards, Apprenticeship]~~ and Mediation shall, subject to appropriation from the General Assembly or funds made available to the division from any other public or private source, provide grants-in-aid to labor-management relations organizations that include both labor and management representatives. An organization shall use a grant-in-aid for the purpose of improving labor-management relations or improving communications with respect to subjects of mutual interest or concern to labor and management. The division shall not provide a grant-in-aid to any organization which interferes with collective bargaining in any plant or industry. The Division of ***Wages, Hours,***~~[Employment Standards, Apprenticeship]~~ and Mediation shall promulgate administrative regulations necessary to carry out this section.

➔Section 5. KRS 342.120 is amended to read as follows:

- (1) There is created the Division of Workers' Compensation Funds in the Department of ***Workers' Claims***~~[Workplace Standards]~~ which shall be responsible for the administration of the special fund and the coal workers' pneumoconiosis fund and the maintenance of records regarding the payment of claims by these funds. The Division of Workers' Compensation Funds shall be headed by a director appointed by the secretary of the Labor Cabinet, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the funds and the maintenance of records regarding the payment of claims by the funds.
- (2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.
- (3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge. This provision is remedial and shall apply to all pending and future claims.

➔Section 6. KRS 342.122 is amended to read as follows:

- (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of ~~Employment Standards,~~ Apprenticeship ***and Division of Wages, Hours, and Mediation***~~[and Mediation]~~ in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.
- (b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.
- (c) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.
- (d) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.
- (2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.
- (3) The assessments imposed by this section may be collected by the insurance carrier from the insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this

chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

- (4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.
- (5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.
- (6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.
- (7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.
- (8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.
- (9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk.

➔Section 7. KRS 342.215 is amended to read as follows:

- (1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.
- (2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his or her full time to the duties of his or her office. ***Each member shall be exempt from the classified service, and his or her support staff may be exempt from the classified service.***

- (3) Of the members of the board appointed under this section, one (1) shall serve a term that shall expire on January 4, 2002; one (1) shall serve a term that shall expire on January 4, 2003; and one (1) shall serve a term that shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his or her position prior to the expiration of his or her term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing the member with a written copy of the charges against him or her and giving the member a public hearing if he or she requests it.
- (4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.
- (5) Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.
- (6) The Workers' Compensation Board shall be attached to the Department of Workers' Claims in the Labor Cabinet.

➔Section 8. KRS 342.230 is amended to read as follows:

- (1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. ~~[- The employees of the Department of Workers' Claims, except the commissioner, administrative law judges, and board members, shall be members of the classified service.]~~
- (2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him or her, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board and the administrative law judges; annually report the activities of the board and the administrative law judges to the Governor; and devote his or her full time to the duties of his or her office. The commissioner shall be paid a salary not less than the salary of a member of the board.
- (3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. ***Each administrative law judge shall be exempt from the classified service, and his or her support staff may be exempt from the classified service.*** Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (4) To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.
- (5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge. A member of the board or an administrative law judge may be removed for good cause, including violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board

may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

- (6) Any vacancy in the term of an administrative law judge, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.
- (7)
 - (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
 - (b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
- (8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars (\$3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

➔Section 9. KRS 342.382 is amended to read as follows:

- (1) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the Department of Workers' Claims ~~and the Workers' Compensation Advisory Council~~ each year, and that information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:
 - (a) Direct premiums written;
 - (b) Direct premiums earned;
 - (c) Dividends paid or credited to policyholders;
 - (d) Losses paid;
 - (e) Allocated loss adjustment expenses;
 - (f) The ratio of allocated loss adjustment expenses to losses paid;
 - (g) Unallocated loss adjustment expenses;
 - (h) The ratio of unallocated loss adjustment expenses to losses paid;
 - (i) The total of losses paid and unallocated and allocated loss adjustment expenses;
 - (j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;
 - (k) The number of claims outstanding as of December 31 of each year;
 - (l) The total amount of losses unpaid as of December 31 of each year;
 - (m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

- (n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and
 - (o) Net investment gain or loss.
- (2) ~~[The first report of the information required in subsection (1) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988.]~~Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

➔Section 10. The following KRS section is repealed:

342.0012 Workers' Compensation Advisory Council.

➔Section 11. The General Assembly confirms Executive Order 2016-855, dated December 1, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 83

(HB 299)

AN ACT relating to the reorganization of the Workers' Compensation Nominating Commission.

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

➔Section 1. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him or her by the Workers' Compensation Nominating **Committee**~~[Commission]~~.
- (2) The Workers' Compensation Nominating **Committee**~~[Commission]~~ shall consist of **five (5)**~~[seven (7)]~~ members appointed by the Governor as follows:
 - (a) ~~[Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years;~~
 - ~~(b) —~~1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of **two (2)**~~[three (3)]~~ years;~~[and]~~
 - 2. ***One (1) member of the political party having the largest number of registered voters shall serve a term of three (3) years; and***~~[Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.]~~
 - 3. Thereafter, ***upon the expiration of a term,***~~[as each term expires]~~, the vacancy ~~[so]~~created shall be filled by an appointee from the same political party for a term of four (4) years; **and**
 - (b) 1. ***Two (2) members who shall be attorneys with experience in the practice of workers' compensation, one (1) who customarily represents claimants and one (1) who customarily represents employers, each of whom shall serve a term of four (4) years; and***
 - 2. ***Thereafter, upon expiration of a term, the vacancy shall be filled by an appointee who meets the same required qualifications or criteria who shall serve a term of four (4) years;***

- (c) Appointments to fill the unexpired term of a member *due to the resignation of a member, removal of a member pursuant to KRS 63.080, or any other reason* shall be for the remainder of the term, *and the new appointee shall meet the same required qualifications or criteria as stated in this section*; and
 - (d) *At the first meeting of each calendar year*, the members shall ~~annually~~ select a chairman of the nominating *committee who shall serve as chairman for the duration of that calendar year*~~commission~~.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least *two (2)*~~three (3)~~ members of the Workers' Compensation Nominating *Committee*~~Commission~~ shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor ~~shall~~*may* remove any existing member of the Workers' Compensation Nominating *Committee who directly derives earned income from the workers' compensation program*~~Commission~~ and replace that member with an individual who does not derive earned income from the workers' compensation program.~~On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.~~
- (4) The commissioner shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating *Committee*~~Commission~~ that filling the position is necessary and the Workers' Compensation Nominating *Committee*~~Commission~~ shall act to fill only such positions as have been certified as necessary by the commissioner.
- (5) (a) The Workers' Compensation Nominating *Committee*~~Commission~~ shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating *Committee*~~Commission~~ may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating *Committee*~~Commission~~ shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.
- (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating *Committee*~~Commission~~ shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating *committee*~~commission~~. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating *committee*~~commission~~ shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating *committee*~~commission~~ shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating *committee*~~commission~~, the previous appointee may remain in the position until the ninetieth day following the date the nominating *committee*~~commission~~ provided the Governor with its list of names, at which time he or she shall vacate the position.

- (8) (a) The nominating ~~committee~~^{commission} shall meet as often as necessary to perform its *statutory* responsibilities, *including but not limited to the mandates enumerated in this section, and a majority of the members shall constitute a quorum for the transaction of business*; and
- (b) The members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. ~~Members~~^{In addition, each member} of the nominating ~~committee~~^{commission} shall *not* be paid *for their attendance at any meeting*~~[at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122].~~

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

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.

- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.

3. Division of Professional Learning and Assessment.
4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.

5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.

3. Division of Financial Standards and Examination.
4. Division of Agent Licensing.
5. Division of Insurance Fraud Investigation.
6. Consumer Protection Division.
7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.{
 - ~~9. —Workers' Compensation Nominating Commission.}~~
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.

- (n) *Workers' Compensation Nominating Committee.*
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.

- (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.

- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.

7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.

- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 3. KRS 336.015 is amended to read as follows:

- (1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the Department of Labor.
- (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of Workers' Claims, and the Department of Workplace Standards.
- (3) The following agencies are attached to the cabinet for administrative purposes only:
 - (a) Kentucky Labor-Management Advisory Council;
 - (b) Kentucky Occupational Safety and Health Review Commission;
 - (c) State Labor Relations Board;
 - (d) Workers' Compensation Funding Commission;
 - (e) Occupational Safety and Health Standards Board;
 - (f) Prevailing Wage Review Board;
 - (g) Apprenticeship and Training Council;
 - (h) Employers' Mutual Insurance Authority;
 - (i) Office of General Administration and Program Support for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet. The office is composed of the following divisions:
 - 1. Division of Human Resource Management;
 - 2. Division of Fiscal Management;
 - 3. Division of Budgets; and
 - 4. Division of Information Services; and

- (j) Office of Inspector General for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet.

(k) *Workers' Compensation Nominating Committee.*

➔Section 4. KRS 336.020 is amended to read as follows:

- (1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the Division of Employment Standards, Apprenticeship and Mediation, the Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of Workers' Compensation Funds. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.
- (2) The Department of Workers' Claims shall be headed by a commissioner who is nominated by the Workers' Compensation Nominating ~~Committee~~~~[Commission]~~, appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.213 and 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Office of General Counsel for Workers' Claims, the Division of Claims Processing, the Division of Information and Research, the Division of Security and Compliance, and the Division of Ombudsman and Workers' Compensation Specialist Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the commissioner and approved by the Governor in accordance with KRS 12.050 and 342.230. The following agencies are attached to the Department of Workers' Claims for administrative purposes only:
 - (a) Workers' Compensation Board; *and*
 - (b) Workers' Compensation Advisory Council; ~~and~~
 - ~~(c) Workers' Compensation Nominating Commission.~~
- (3) The Office of General Counsel for the Labor Cabinet and the Division of Management Services are attached to the Office of the Secretary of the Labor Cabinet.

➔Section 5. KRS 342.228 is amended to read as follows:

- (1) The Department of Workers' Claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance, and rehabilitation provisions in this chapter. The department shall be administered by a commissioner appointed by the Governor. The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating ~~Committee~~~~[Commission]~~ created pursuant to KRS 342.213. The commissioner appointed by the Governor shall be subject to the consent of the Senate in accordance with KRS 11.160.
- (2) The commissioner shall have demonstrated knowledge and experience in the area of workers' compensation, public administration, and administrative law.

➔Section 6. Notwithstanding subsection (8)(b) of Section 1 of this Act, any member of the Workers' Compensation Nominating Committee who previously served on the Workers' Compensation Nominating Commission prior to May 9, 2016, and who was appointed to the committee pursuant Executive Order 2016-319 shall be paid at a rate of \$100 per day for each meeting attended for the duration of his or her term. These expenses shall be financed from funds collected pursuant to KRS 342.122.

➔Section 7. The General Assembly confirms Executive Order 2016-319, dated June 13, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 84

(HB 304)

AN ACT relating to the nurse licensure compact.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Nurse Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact, which is, in form, substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

a. The party states find that:

- 1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;*
- 2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;*
- 3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;*
- 4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;*
- 5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and*
- 6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.*

b. The general purposes of this Compact are to:

- 1. Facilitate the states' responsibility to protect the public's health and safety;*
- 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;*
- 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;*
- 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;*
- 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;*
- 6. Decrease redundancies in the consideration and issuance of nurse licenses; and*
- 7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.*

c. The following provisions of this Compact shall apply in this state:

- 1. By entering into this Compact, this state authorizes the licensing board as defined in Article II. g. of this Compact and as created by KRS Chapter 314 to implement the provisions of this Compact.*
- 2. Notwithstanding any provision of this Compact to the contrary:*
 - i. When a rule is adopted pursuant to Article VIII of this Compact, the licensing board of this state as defined by Article II. g. of this Compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the licensing board of this state as defined by Article II. g. of this Compact to promulgate a rule adopted by the Interstate Commission of Nurse Licensure Compact Administrators as an administrative regulation pursuant to KRS Chapter 13A shall result in the initiation of the process for withdrawal as set forth in Article X of this Compact. Nothing in these provisions shall negate the applicability and effect of Article VIII. j. of this Compact to this state.*
 - ii. If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of Article IX of this Compact shall apply.*

In the event that the procedures under Article IX of this Compact fail to resolve an issue, the provisions of Article X of this Compact shall apply.

- iii. *In the event the Interstate Commission of Nurse Licensure Compact Administrators created by Article VII of this Compact exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.*
- 3. *Article VII. h. of this Compact pertaining to the financing of the Commission shall not be interpreted to obligate the general fund of this state. Any funds used to finance this Compact shall be from money collected pursuant to KRS 314.161.*
- 4. *This Compact shall apply only to those nurses who hold a multistate license.*
- 5. *The term "head of the state licensing board" as used in Article VII. b. of this Compact refers to the executive director of the Kentucky Board of Nursing.*

ARTICLE II

Definitions

As used in this Compact:

- a. *"Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.*
- b. *"Alternative program" means a non-disciplinary monitoring program approved by a licensing board.*
- c. *"Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.*
- d. *"Current significant investigative information" means:*
 - 1. *Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or*
 - 2. *Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.*
- e. *"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.*
- f. *"Home state" means the party state which is the nurse's primary state of residence.*
- g. *"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.*
- h. *"Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.*
- i. *"Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.*
- j. *"Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.*
- k. *"Party state" means any state that has adopted this Compact.*
- l. *"Remote state" means a party state, other than the home state.*
- m. *"Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.*
- n. *"State" means a state, territory or possession of the United States and the District of Columbia.*

- o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.*

ARTICLE III

General Provisions and Jurisdiction

- a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.*
- b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.*
- c. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:*
- 1. Meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;*
 - 2. i. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or*
ii. Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
 - 3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;*
 - 4. Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable;*
 - 5. Is eligible for or holds an active, unencumbered license;*
 - 6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;*
 - 7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;*
 - 8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;*
 - 9. Is not currently enrolled in an alternative program;*
 - 10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and*
 - 11. Has a valid United States Social Security number.*
- d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.*

- e. *A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.*
- f. *Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.*
- g. *Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:*
 - 1. *A nurse, who changes primary state of residence after this Compact's effective date, must meet all applicable Article III.c. requirements to obtain a multistate license from a new home state.*
 - 2. *A nurse who fails to satisfy the multistate licensure requirements in Article III. c. of this Compact due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").*

ARTICLE IV

Applications for Licensure in a Party State

- a. *Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.*
- b. *A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.*
- c. *If a nurse changes primary state of residence by moving between two (2) party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Commission.*
 - 1. *The nurse may apply for licensure in advance of a change in primary state of residence.*
 - 2. *A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.*
- d. *If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.*

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

- a. *In addition to the other powers conferred by state law, a licensing board shall have the authority to:*
 - 1. *Take adverse action against a nurse's multistate licensure privilege to practice within that party state.*
 - i. *Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.*
 - ii. *For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.*

2. *Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.*
 3. *Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.*
 4. *Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.*
 5. *Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.*
 6. *If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.*
 7. *Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.*
- b. *If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.*
- c. *Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.*

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

- a. *All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.*
- b. *The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.*
- c. *All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.*
- d. *Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.*
- e. *Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.*

- f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.*
- g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.*
- h. The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:*
 - 1. Identifying information;*
 - 2. Licensure data;*
 - 3. Information related to alternative program participation; and*
 - 4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.*
- i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.*

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

- a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.*
 - 1. The Commission is an instrumentality of the party states.*
 - 2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.*
 - 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.*
- b. Membership, Voting and Meetings*
 - 1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.*
 - 2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.*
 - 3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.*
 - 4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII of this Compact.*
 - 5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:*
 - i. Noncompliance of a party state with its obligations under this Compact;*
 - ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;*
 - iii. Current, threatened or reasonably anticipated litigation;*
 - iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;*

- v. *Accusing any person of a crime or formally censuring any person;*
 - vi. *Disclosure of trade secrets or commercial or financial information that is privileged or confidential;*
 - vii. *Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
 - viii. *Disclosure of investigatory records compiled for law enforcement purposes;*
 - ix. *Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or*
 - x. *Matters specifically exempted from disclosure by federal or state statute.*
6. *If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.*
- c. *The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:*
- 1. *Establishing the fiscal year of the Commission;*
 - 2. *Providing reasonable standards and procedures:*
 - i. *For the establishment and meetings of other committees; and*
 - ii. *Governing any general or specific delegation of any authority or function of the Commission;*
 - 3. *Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;*
 - 4. *Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;*
 - 5. *Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and*
 - 6. *Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations.*
- d. *The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the Web site of the Commission.*
- e. *The Commission shall maintain its financial records in accordance with the bylaws.*
- f. *The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.*
- g. *The Commission shall have the following powers:*
- 1. *To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;*

2. *To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;*
3. *To purchase and maintain insurance and bonds;*
4. *To borrow, accept or contract for services of personnel, including but not limited to employees of a party state or nonprofit organizations;*
5. *To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;*
6. *To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;*
7. *To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;*
8. *To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;*
9. *To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;*
10. *To establish a budget and make expenditures;*
11. *To borrow money;*
12. *To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;*
13. *To provide and receive information from, and to cooperate with, law enforcement agencies;*
14. *To adopt and use an official seal; and*
15. *To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.*

h. Financing of the Commission

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

i. Qualified Immunity, Defense and Indemnification

1. *The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim*

is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

2. *The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.*
3. *The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.*

ARTICLE VIII

Rulemaking

- a. *The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.*
- b. *Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.*
- c. *Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:*
 1. *On the Web site of the Commission; and*
 2. *On the Web site of each licensing board or the publication in which each state would otherwise publish proposed rules.*
- d. *The notice of proposed rulemaking shall include:*
 1. *The proposed time, date and location of the meeting in which the rule will be considered and voted upon;*
 2. *The text of the proposed rule or amendment, and the reason for the proposed rule;*
 3. *A request for comments on the proposed rule from any interested person; and*
 4. *The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.*
- e. *Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.*
- f. *The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.*
- g. *The Commission shall publish the place, time and date of the scheduled public hearing.*
 1. *Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings shall be recorded, and a copy shall be made available upon request.*
 2. *Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.*
- h. *If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.*

- i. *Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.*
- j. *The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.*
- k. *Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:*
 - 1. *Meet an imminent threat to public health, safety or welfare;*
 - 2. *Prevent a loss of Commission or party state funds; or*
 - 3. *Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.*
- l. *The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the Web site of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.*

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

- a. *Oversight*
 - 1. *Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.*
 - 2. *The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.*
- b. *Default, Technical Assistance and Termination*
 - 1. *If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:*
 - i. *Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and*
 - ii. *Provide remedial training and specific technical assistance regarding the default.*
 - 2. *If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.*
 - 3. *Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.*
 - 4. *A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.*

5. *The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.*
6. *The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.*

c. *Dispute Resolution*

1. *Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.*
2. *The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.*
3. *In the event the Commission cannot resolve disputes among party states arising under this Compact:*
 - i. *The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.*
 - ii. *The decision of a majority of the arbitrators shall be final and binding.*

d. *Enforcement*

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

ARTICLE X

Effective Date, Withdrawal and Amendment

- a. *This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no fewer than twenty-six (26) states or December 31, 2018. All party states to this Compact that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.*
- b. *Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.*
- c. *Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.*
- d. *A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.*
- e. *Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.*
- f. *This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.*

- g. *Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.*

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

➔Section 2. The following KRS section is repealed:

314.470 Nurse Licensure Compact.

➔Section 3. This Act takes effect on the earlier of:

- (1) December 31, 2018; or
- (2) The date of legislative enactment by no fewer than 26 states of the Nurse Licensure Compact that is, in form, substantially the same as the compact contained in this Act.

Signed by Governor March 21, 2017.

CHAPTER 85

(HB 306)

AN ACT relating to an exemption from workers' compensation for religious organizations.

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

➔Section 1. KRS 342.650 is amended to read as follows:

The following employees are exempt from the coverage of this chapter:

- (1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employees each regularly employed forty (40) or more hours a week in domestic servant employment;
- (2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where that employer carries on his or her trade, business, or profession;
- (3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization;
- (4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal Coal Mine Health and Safety Act of 1969, or as amended;
- (5) Any person employed in agriculture;
- (6) Any person who would otherwise be covered but who elects not to be covered in accordance with the administrative regulations promulgated by the commissioner;
- (7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his or her place of employment. For the purposes of this subsection, carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment; ~~and~~

- (8) Members of a religious sect or division that is an adherent of established tenets or teachings by reason of which members are conscientiously opposed to acceptance of the benefits of any public or private insurance which makes payments in the event of death, disability, old age, or retirement, or makes payments toward the cost of, or provides services for, medical bills, including the benefits of any insurance system established by the Federal Social Security Act, 42 U.S.C. secs. 301 et seq., and it is the practice, and has been for ten (10) or more years, for members of the sect or division to make reasonable provision for their dependent members;
- (9) *Any licensed or unlicensed, commissioned, ordained or unordained, or lay minister of religion who has no set oral or written agreement with a church or religious organization to receive a fixed regular payment for services provided to the church or who works no more than ten (10) hours per week; and*
- (10) *Any caretaker of a cemetery or property owned or operated by a church or religious organization who provides general cleanup services, including but not limited to mowing, raking, dusting, sweeping, and mopping which could be performed for other individuals or organizations, who works no more than ten (10) hours per week.*

Signed by Governor March 21, 2017.

CHAPTER 86

(HB 318)

AN ACT relating to local government regulation of real and personal property.

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

➔Section 1. KRS 65.8811 is amended to read as follows:

- (1) (a) A code enforcement board shall consist of no fewer than three (3) members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.
- (b) A joint code enforcement board shall *be appointed as set out in the terms of an interlocal agreement and shall* include representation on the board of all participating local governments. *Two (2) or more participating local governments may share an appointment or appointments* ~~and members shall be appointed as set out in the terms of the interlocal agreement.~~
- (2) The initial appointments to a code enforcement board shall be as follows:
 - (a) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;
 - (b) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and
 - (c) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of three (3) years.

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

- (3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (b) Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (4) A member may be reappointed, subject to approval of the legislative body *or, in the case of a joint appointment, approval of the legislative bodies.*
- (5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. *Joint appointments shall require an agreement of the executive authorities and approval of the legislative bodies in filling the vacancy.* If a vacancy is not filled

within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

- (6) Any member of a code enforcement board may be removed by the appointing authority **or authorities** for misconduct, inefficiency, or willful neglect of duty. Any appointing authority **or authorities exercising** ~~the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government or local governments, setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.~~
- (7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.
- (8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.
- (9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government **that is subject to the jurisdiction of** ~~that has created~~ the code enforcement board.
- (10) Each legislative body that elects to establish a code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement board.

➔Section 2. KRS 65.8825 is amended to read as follows:

- (1) Enforcement proceedings before a code enforcement board or hearing officer shall be initiated by the issuance of a citation by a code enforcement officer.
- (2) When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation by:
 - (a) Personal service to the alleged violator;
 - (b) Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; ~~or~~
 - (c) ***Mailing a copy of the citation by regular first-class mail to the last known recorded mailing address of the alleged violator; or***
 - (d) ***If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (a) to (c) of this subsection is not possible, then the citation is properly served by*** posting a copy of the citation in a conspicuous place on the premises ~~and mailing a copy of the citation by regular, first-class mail of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the citation is issued~~.
- (3) When authorized by ordinance, a code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation shall be remedied within a specified period of time. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.
- (4) The citation issued by the code enforcement officer shall be in a form prescribed by the local government and shall contain, in addition to any other information required by ordinance or rule of the board:
 - (a) The date and time of issuance;
 - (b) The name and address of the person to whom the citation is issued;
 - (c) The date and time the offense was committed;
 - (d) The facts constituting the offense;
 - (e) The section of the code or the number of the ordinance violated;
 - (f) The name of the code enforcement officer;
 - (g) The civil fine that will be imposed for the violation if the person does not contest the citation if the local government has elected to use the alternative authorized under KRS 65.8808(2)(b);
 - (h) The maximum civil fine that may be imposed if the person elects to contest the citation;

- (i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - (j) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the code enforcement board or hearing officer to contest the citation and that the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.
- (5) After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board. The code enforcement officer, hearing officer, or code enforcement board may also elect to provide notice of the issuance of the citation to any lienholder with an interest in the subject premises.
- (6) When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing to contest the citation. If the person fails to respond to the citation within seven (7) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the citation, as issued, shall be deemed a final order determining that the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court. Notice of the final order shall be provided to the cited violator **by:**
- (a) ***Regular first-class mail;***
 - (b) ***Certified mail, return receipt requested;***
 - (c) ***Personal delivery; or***
 - (d) ***Leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order in the manner set forth in KRS 65.8828(5).***

➔Section 3. KRS 65.8836 is amended to read as follows:

- (1) A local government adopting the provisions of KRS 65.8801 to 65.8839 shall implement a system for notification to lienholders that meets the minimum requirements of subsection (2) of this section and shall comply with the procedures to permit remedial action by lienholders as provided in subsection (3) of this section in order to obtain and maintain the lien priority over previously filed liens granted in KRS 65.8835.
- (2) A local government shall create a notification system that provides lienholders and others that elect to do so with electronic notifications of all final orders entered pursuant to KRS 65.8801 to 65.8839. The system shall meet the following minimum requirements:
 - (a) An individual or entity may register with the local government to receive information on each final order by providing a name, mailing address, phone number, and an electronic mailing address to the local government. The local government shall accept this information in any form submitted by a registrant. It shall be the responsibility of the registrant to maintain and update its contact information with the local government, except that a local government shall inform a registrant of any evidence the local government receives that the electronic mailing address is invalid or not functional in order to provide the registrant an opportunity to submit an updated electronic mailing address;
 - (b) No less than once a month but no more frequently than once per week, the local government shall send electronic mail notification of all final orders issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last date of notification to each party registered pursuant to paragraph (a) of this subsection. The notification shall, at a minimum, include or provide an electronic link to a document or database meeting the requirements of this paragraph that includes:
 - 1. The name of the person charged with a violation;
 - 2. The physical address of the premises where the violation occurred;
 - 3. The last known mailing address for the owner of the premises where the violation occurred ***if, in the exercise of reasonable diligence, it is ascertainable.***
 - 4. A specific description of the citation leading to the final order, including the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be satisfied by including a copy of the full citation;

5. The findings of the final order, including the penalty or penalties imposed by the final order, which may be satisfied by providing a copy of the full final order; and
 6. The status of the final order in regards to its ability to be appealed pursuant to KRS 65.8831, except that the local government shall provide an update to registrants if an appeal is filed on a final order pursuant to KRS 65.8831;
- (c) ***At the same time the electronic notification required under paragraph (b) of this subsection is sent***, a local government shall post ~~this~~^{the} notification ~~required under paragraph (b) of this subsection~~ or provide a summary of the information regarding each final order required by paragraph (b) of this subsection in a conspicuous place on its public Web site, which shall be affiliated with the local government and contain other information about the local government ~~within ten (10) days of the issuance of the final order~~. If the local government posts using summary form:
1. The summary shall be calculated to reasonably allow identification of the specific properties which may be impacted by the lien; and
 2. Upon request, the local government shall provide the complete record of a final order created under paragraph (b) of this subsection without charge; and
- (d) A local government shall maintain the records created under this subsection for a period of ten (10) years following their issuance.
- (3) (a) A lien holder of record may, within forty-five (45) days from the date of issuance of notification under subsection (2) of this section, correct the violation if it has not already been abated, or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs. This subsection shall not prohibit the local government from taking immediate action if necessitated under KRS 65.8838.
- (b) The lien provided by KRS 65.8835 shall not take precedence over previously recorded liens if:
1. The local government failed to comply with the requirements of subsection (2) of this section for notification of the final order; or
 2. A prior lienholder corrected the violation or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs within forty-five (45) days as provided in paragraph (a) of this subsection.
- (c) A lien that does not take precedence over previously recorded liens under the circumstances outlined in paragraph (b) of this subsection, shall, if the final order remains partially unsatisfied, take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
- (d) Nothing contained in this subsection shall prohibit a local government from recording a lien before the forty-five (45) day period established in paragraph (a) of this subsection expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period established in paragraph (a) of this subsection, the local government shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.
- (4) The local government may delegate responsibility for compliance with this section to the code enforcement board or its administrative staff as specified in the ordinance establishing and governing the operation of the code enforcement board.
- (5) The failure of a local government to comply with this section or the failure of a lien to take precedence over previously filed liens as provided in subsection (3)(b) of this section, shall not limit or restrict any other remedies that the local government has against the property or the violator.
- (6) ~~The requirements of this section shall not be mandatory for a local government's compliance with KRS 65.8840.~~
- ~~(7) The requirements of this section shall not apply to a local government when it enforces KRS 65.8840.~~

➔Section 4. KRS 65.350 is amended to read as follows:

As used in KRS 65.350 to KRS 65.375:

- (1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;

- (2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;
- (3) "Local government" means every city, regardless of classification, every county, and every consolidated local government and urban-county government;
- (4) **"Party" or "parties"** means **one (1) or more**~~the~~ parties to ~~an~~~~the~~ agreement, ~~which~~~~that~~ shall include any local government, the local school district, which may include county and independent school districts, within the county and the Commonwealth of Kentucky;
- (5) "Property" means real property, including any improvements thereon;~~and~~
- (6) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable; **and**
- (7) **"Local government lien" means any lien established by or in favor of a local government under KRS Chapter 65, 82, 91, 91A, or 134.**

➔Section 5. KRS 65.355 is amended to read as follows:

- (1) Any local government, the county or independent school district within the county, and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to KRS 65.350 to 65.375.
- (2) The authority shall be a public body corporate and politic with the power to sue and be sued, issue deeds in its name, and any other powers necessary and convenient to carry out these powers or that may be granted to the authority by the parties.
- (3) The authority shall be established to acquire the tax delinquent properties of the parties, **properties that have become blighted or deteriorated as defined by KRS 99.705 and properties that have local government liens filed against them,**~~in order~~ to **facilitate**~~foster~~ the public purpose of returning **property**~~land~~ that is in a non-revenue generating, non-tax producing status to effective utilization, **including but not limited to providing**~~in order to provide~~ housing, new industry, and jobs for the citizens of the county. The authority shall have the powers provided in KRS 65.370 and 65.375 and in the interlocal cooperation agreement.

➔Section 6. KRS 65.365 is amended to read as follows:

~~{(1)}~~ Upon the creation of a land bank authority, the authority shall maintain a ~~mailing~~ list of **electronic mail addresses for all** city, county, or regional housing authorities, and the Kentucky Housing Corporation, that have requested to be notified prior to any action by the authority to dispose of property in its inventory. It shall be the responsibility of an interested housing authority to provide the authority with the following information:

- ~~(1){(a)}~~ **The** name of the organization;
- ~~(2){(b)}~~ **The electronic** mailing address for the organization; and
- ~~(3){(c)}~~ The name and title of a contact person for the organization.

➔Section 7. KRS 65.370 is amended to read as follows:

- (1) The authority shall hold in its own name, for the benefit of the parties, all properties conveyed to it by the parties, all tax delinquent properties **or properties having local government liens** acquired by it pursuant to **Section 8 of this Act**~~this section~~, and all properties otherwise acquired **by other means**.
- (2) ~~It shall be the duty of~~ The authority **shall**~~to~~ administer the properties **held**~~acquired~~ by it, as follows:
 - (a) All property **held**~~acquired~~ by the authority shall be inventoried, ~~and appraised~~ and the inventory shall be maintained as a public record;
 - (b) The authority shall organize and classify the property on the basis of suitability for use;
 - (c) The authority shall maintain all property held by it in accordance with applicable laws and codes; and
 - (d) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, ~~sell~~~~sale~~, trade, exchange, or otherwise dispose of any property on terms and conditions as determined by KRS 65.350 to 65.375 and by the authority. The authority may assemble tracts or parcels of property~~for public parks or other public purposes~~, and ~~to that end~~ may exchange parcels, and **may** otherwise effectuate the purposes **of the agreement and of KRS 65.350 to 65.375**~~by agreement with any party~~.

- (3) Before the authority may rent, lease, sell, trade, exchange, or otherwise dispose of any property it shall:
- (a) Establish a price for rent or lease purposes;
 - (b) Establish a purchase price for sale purposes; or
 - (c) Establish the conditions for **sale, rent**, trade, exchange, or other disposal of the property.
- (4) The authority shall publish pursuant to KRS Chapter 424, the information required pursuant to subsection (3) of this section, at least **seven (7)**~~thirty (30)~~ days before any property may be disposed of from the inventory. Immediately following publication the authority shall notify by **electronic**~~first class~~ mail all housing authorities on the mailing list required pursuant to KRS 65.365 of the authority's intent to dispose of a specified property and the established price to rent, lease, or purchase the property, **and**~~for the~~ conditions for ~~trade, exchange, or other~~ disposal of the property.
- (5) No property shall be acquired pursuant to KRS 65.350 to 65.375 by any entity for investment purposes only and with no intent to use the property other than to transfer the property at a future date for monetary gain.
- (6) ***When a property is acquired by the authority, all state, county, city, and school district taxes shall be extinguished.***~~[No property acquired by a housing authority pursuant to KRS 65.350 to 65.375 shall be transferred to a similar group without prior approval of the authority].~~
- (7) ***When the authority sells or otherwise disposes of property, except property acquired and disposed of pursuant to Section 8 of this Act, all proceeds shall be retained by the authority.***~~[The acquisition and disposal of property by the authority shall not be governed or controlled by any regulations or laws of the parties, unless specifically provided in the agreement].~~
- (8) ***For the first five (5) years following conveyance of the property by the authority to an owner that is subject to ad valorem property taxes, fifty percent (50%) of the ad valorem property taxes collected from the property by all parties to the agreement, except school districts, shall be remitted to the authority.***~~[No property located within the boundaries of a local government may be sold, traded, exchanged, or otherwise disposed of, unless the transaction is approved by the member appointed by the affected local government].~~

➔Section 8. KRS 65.375 is amended to read as follows:

- (1) If any party obtains a judgment against a tax delinquent property within the county for the taxes and, to satisfy the judgment, the property is ordered sold at a tax sale pursuant to KRS 91.504 or other provision of the Kentucky Revised Statutes, if no person bids an amount equal to the full amount of all tax bills, interest, and costs owing on the property at the sale, the authority shall be deemed to have bid the full amount of all tax bills, interest, and costs due to all parties of the authority regardless of whether or not they are all parties to the lawsuit. The authority shall not be required to make actual payment to the court for the amount deemed to have been bid. The court, notwithstanding any other provision of law, shall treat the amount deemed to have been bid as cash received. Upon proper motion by the authority, the court shall make a deed of the property to the "Land Bank Authority." The title to the property shall be an absolute estate in fee simple, free and clear of all tax bills, interests, and costs owing to the parties of the authority but shall be subject to rights of way of public utilities on which tax has otherwise been paid and subject to any right of redemption of the United States of America, if any.
- (2) ~~[When a property is acquired by the authority, all state, county, city, and school district taxes shall be extinguished.]~~
- ~~(3)~~ At the time that the authority sells or otherwise disposes of property **obtained pursuant to this section** as part of its land bank program, the proceeds from the sale shall be distributed as follows:
- (a) The party or parties bringing the action that resulted in the acquisition of the property by the land bank authority shall be reimbursed, to the extent proceeds are available, for all costs incurred; and
 - (b) Any remaining proceeds shall be distributed to the parties in proportion to their respective tax bills. Conveyance of a property to a party shall not constitute disposal.

Signed by Governor March 21, 2017.

CHAPTER 87

(HB 324)

AN ACT relating to depository institutions.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 1 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

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

- (1) *"Commissioner" means the commissioner of the Department of Financial Institutions;*
- (2) *"Department" means the Department of Financial Institutions; and*
- (3) *"Person" means a natural person, or any type or form of corporation, company, partnership, proprietorship, association, or other legal entity.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Covered service" means:*

1. *Data processing;*
2. *Any activity that supports financial services, including but not limited to lending, funds transfer, fiduciary activity, trading activity, and deposit taking; and*
3. *Internet-related services, including but not limited to Web services and electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring;*

(b) *"Depository institution" means any:*

1. *State bank as defined in KRS 286.3-010;*
2. *Branch of an out-of-state bank as defined in KRS 286.3-010 that is doing business under the laws of this state;*
3. *Trust company as defined in KRS 286.3-010; or*
4. *Credit union as defined in KRS 286.6-005; and*

(c) *"Service provider" means any person that provides a covered service listed in paragraph (a) of this subsection to a depository institution, except any:*

1. *Bank service company that is examined and regulated by the appropriate federal banking agency. For the purposes of this subparagraph, "bank service company" and "appropriate federal banking agency" have the meanings set forth in the Bank Service Company Act, 12 U.S.C. sec. 1861, as amended, or any successor statute;*
2. *Depository institution, holding company of a depository institution, or subsidiary of that holding company; and*
3. *Federally chartered depository institution, holding company of a federally chartered depository institution, or subsidiary of that holding company. For the purposes of this subparagraph, "federally chartered depository institution" means a bank, savings association, or credit union organized pursuant to the laws of the United States.*

- (2) *The commissioner may examine a service provider for any covered service it provides to a depository institution if the examination is conducted in conjunction with an examination conducted by a properly authorized federal regulatory agency.*
- (3) *The commissioner may accept an examination made by other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider in lieu of any examination authorized or required under the laws of this state.*

- (4) *A report of examination and related correspondence shall be considered confidential information. No person shall release any information contained in the examination unless required by court order. Notwithstanding this subsection, the department may furnish:*
- (a) *A copy of a report of examination performed by the commissioner of the condition and affairs of any service provider to the depository institutions serviced by the service provider; and*
 - (b) *To and exchange information and reports of examinations with officials and examiners of other properly authorized state or federal regulatory agencies.*
- (5) *Every official report concerning a service provider, and every report of examination, shall be prima facie evidence of the facts contained in the report for any purpose in any action in which the department or service provider is a party.*
- (6) *The commissioner shall fix a scale of examination fees to be paid by service providers. The fees shall be:*
- (a) *Sufficient to cover the cost of the examination based upon a fair compensation for time and actual expense;*
 - (b) *Assessed and paid by service providers promptly after completion of the examination; and*
 - (c) *Set by administrative regulation.*
- (7) *The commissioner may enter into cooperative agreements with other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider to facilitate the examination process, including joint examination, scheduling, resources, fee collection and sharing, report of examination processing, and enforcement actions.*

➔Section 3. KRS 286.6-100 is amended to read as follows:

- (1) Credit unions shall:
- (a) Be under the supervision of the commissioner;~~and shall~~
 - (b) ~~File~~~~make~~ financial reports ~~with~~~~to~~ the commissioner as *specified by administrative regulation, but no less frequently than annually*; ~~and when he or she may require, but at least annually.~~
 - (c) ~~[Each credit union shall]~~Be subject to examination by~~;~~ and for this purpose shall make its books and records accessible to~~;~~ any person designated by the commissioner; ~~and~~~~[- The commissioner shall fix a scale of examination fees to be paid by credit unions, giving due consideration to the time and expense incident to such examinations and to the ability of credit unions to pay such fees, which fees shall be assessed and paid by each credit union promptly after completion of such examination.]~~
 - (d) *Pay the following fees to the commissioner:*
 - 1. *For each credit union subject to supervision and examination by the commissioner, there shall be an annual fee based on the assets of the credit union, as reported to the department by the credit union as of December 31 of the previous year. The fee schedule shall be:*
 - a. *At the rates necessary to carry out the duties of the department;*
 - b. *Reasonably related to the costs incurred by the department in regulating credit unions; and*
 - c. *Set by the commissioner by promulgating an administrative regulation; and*
 - 2. *Any fees for extraordinary services performed by the department for a particular credit union. Fees assessed pursuant to this subparagraph shall be determined upon the basis of fair compensation for time and actual expense.*
- (2) In lieu of the examination provided for in this section, the commissioner may accept any examination made by the National Credit Union Administration. One (1) copy of the examination report shall be promptly submitted to the commissioner for processing and analysis by the ~~department~~~~Department of Financial Institutions~~.
- (3) When, in the judgment of the commissioner, the condition of any credit union organized under the provisions of this subtitle renders it necessary or expedient to make an examination or to devote any extraordinary attention to its affairs, the commissioner shall cause ~~that~~~~such~~ work to be done. A full and complete copy of the report of all examinations shall be furnished to the credit union so examined. ~~The~~~~Such~~ report of

examination shall be presented by the president *of the credit union* to the board of directors at its next regular or special meeting.

Signed by Governor March 21, 2017.

CHAPTER 88

(HB 337)

AN ACT relating to employment contracts for local law enforcement agencies.

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

➔Section 1. KRS 70.290 is amended to read as follows:

- (1) (a) City and county law enforcement agencies, including sheriff's offices, may, as a condition of employment, require a newly appointed deputy sheriff or peace officer who will participate in the Kentucky Law Enforcement Foundation Fund Program, authorized by KRS 15.410 to 15.510, to enter into an employment contract for a period of no longer than three (3) years from the date of graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.
- (b) If a deputy sheriff or peace officer who has entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that law enforcement agency shall reimburse the law enforcement agency that initially hired the deputy sheriff or peace officer for the actual costs incurred and expended *by the law enforcement agency that initially hired the deputy sheriff or peace officer* which are associated with the initial hiring of that officer, including but not limited to the application process, training costs, equipment costs, salary and fringe benefits. The law enforcement agency that initially hired the deputy sheriff or peace officer shall be reimbursed for the costs from the time of the deputy sheriff or peace officer's initial application until graduation from the Department of Criminal Justice Training.
- (c)
 1. *For contracts entered into before the effective date of this Act*, the amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the deputy sheriff or peace officer completed of his or her employment contract. The amount of reimbursement authorized by this subsection after the pro rata amount is calculated shall be reduced by the cost of the training provided by the Department of Criminal Justice Training for the subject officer.
 2. *For contracts entered into on or after the effective date of this Act, the amount of reimbursement authorized by this subsection shall not be prorated, and shall be for the full amount as calculated in paragraph (b) of this subsection.*
- (2) If a peace officer who has been employed by a state law enforcement agency for three (3) years or less accepts employment as a peace officer with a city or local law enforcement agency, that city or local law enforcement agency shall reimburse the state law enforcement agency that initially hired the peace officer for the costs expended with the initial hiring of that officer, including but not limited to the application process, training costs, equipment costs, salary and fringe benefits. The state law enforcement agency that initially hired the peace officer shall be reimbursed for the costs incurred and expended from the time of the peace officer's initial application until graduation from a Kentucky Law Enforcement Council approved training academy. The amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the peace officer has been employed.

Signed by Governor March 21, 2017.

CHAPTER 89

(HB 343)

AN ACT relating to reorganization.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.

- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.

- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
 - 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.

1. Office of Communications and Public Outreach.
2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.

- 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information and Research.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. Workers' Compensation Advisory Council.
 - 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.

3. Office of Highway Safety.
4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.

- (g) Office of Policy and Budget.
- (h) Office of Human Resource Management.
- (i) Office of Administrative and Technology Services.
- (j) Department for Public Health.
- (k) Department for Medicaid Services.
- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (m) Department for Aging and Independent Living.
- (n) Department for Community Based Services.
- (o) Department for Income Support.
- (p) Department for Family Resource Centers and Volunteer Services.
- (q) Kentucky Commission on Community Volunteerism and Service.
- (r) Kentucky Commission for Children with Special Health Care Needs.
- (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.

2. Division of Marketing and Administration.
3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 1. Division of Information Technology.
 2. Division of Human Resources.
 3. Division of Financial Operations.
 4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.

12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.

- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.
- (10) ***Kentucky Communications Network Authority.***

➔Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
 - (a) Foundation for Adult Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Early Childhood Advisory Council;
- (5) Kentucky Commission on Human Rights;
- (6) Kentucky Commission on Women;
- (7) Kentucky Commission on Military Affairs;
- (8) Agricultural Development Board;
- (9) Kentucky Agricultural Finance Corporation;
- (10) Office of Minority Empowerment;
 - (a) The Martin Luther King Commission;~~and~~
- (11) Office of Homeland Security; ***and***
- (12) ***Kentucky Communications Network Authority.***

➔SECTION 3. SUBCHAPTER 15 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 5 of this Act:

- (1) ***"Authority" means the Kentucky Communications Network Authority;***
- (2) ***"Board" means the Board of the Kentucky Communications Network Authority;***
- (3) ***"Executive director" means the executive director of the Kentucky Communications Network Authority;***
- (4) ***"Network" or "KentuckyWired" means the Commonwealth's open-access broadband network; and***
- (5) ***"Partnership" means the public-private partnership entered into between the Commonwealth and a private entity or entities for the purpose of creating, running, and maintaining the network.***

➔SECTION 4. A NEW SECTION OF SUBCHAPTER 15 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Communications Network Authority is established and shall be attached to the Office of the Governor. The authority shall be headed by an executive director who shall be hired by the board and approved by the Governor.*
- (2) *Notwithstanding KRS 42.726, the duties of the authority shall be to:*
 - (a) *Oversee and maintain KentuckyWired, the Commonwealth's open-access broadband network;*
 - (b) *Manage the master agreement establishing the public-private partnership between the Commonwealth and its private industry partner or partners. The purpose of the agreement is to design, engineer, build, operate, maintain, and upgrade the network;*
 - (c) *Provide network connectivity to public agencies;*
 - (d) *Offer access to entities eligible to utilize excess capacity on the network;*
 - (e) *Manage other aspects of the network and its utilization through the executive director and with oversight and input from the board established in Section 5 of this Act and the advisory group established in this section;*
 - (f) *Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement the purposes of sections 3 to 5 of this Act;*
 - (g) *Enter into contracts with public and private entities to carry out its duties and responsibilities. A contract or other agreement involving the acquisition or disposition of a property interest by the Commonwealth shall be signed by the secretary of the Finance and Administration Cabinet. KRS Chapters 45A and 56 may require the secretary's signature on other contracts or agreements;*
 - (h) *Provide program management services ensuring the financial viability of the master agreement and related contracts and agreements, including grant administration, contract compliance and oversight, community planning support, and constituent services;*
 - (i) *Seek out, secure, and manage funding sources for the network; and*
 - (j) *Create an advisory group, including major stakeholders, to provide input and feedback on issues important to the user community and to the long-term sustainability of the project and the network. The advisory group shall be administratively attached to and managed by the authority. The advisory group shall include but not be limited to representatives of:*
 1. *The Department of Education;*
 2. *The Council on Postsecondary Education;*
 3. *The Cabinet for Economic Development;*
 4. *The Cabinet for Health and Family Services;*
 5. *The Transportation Cabinet;*
 6. *The Justice and Public Safety Cabinet;*
 7. *The Finance and Administration Cabinet;*
 8. *The Administrative Office of the Courts;*
 9. *The Legislative Research Commission;*
 10. *Institutions of higher education;*
 11. *Local government entities;*
 12. *Libraries;*
 13. *Public health care institutions or agencies;*
 14. *Kentucky Educational Television; and*
 15. *Others whose input will benefit the network.*
- (2) *With the approval of the board, the executive director may hire additional officers and other personnel necessary for the proper functioning of the authority, fix their salaries, and prescribe their duties. The*

executive director and persons employed by the authority shall not be subject to the provisions of KRS Chapter 18A.

➔SECTION 5. A NEW SECTION OF SUBCHAPTER 15 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Board of the Kentucky Communications Network Authority is established. The board shall be attached administratively to the Office of the Governor.*
- (2) *The board shall consist of:*
 - (a) *The secretary of the Governor's Executive Cabinet or designee, who shall serve as chair of the board;*
 - (b) *The state budget director or designee;*
 - (c) *The secretary of the Transportation Cabinet or designee;*
 - (d) *The secretary of the Cabinet for Economic Development or designee;*
 - (e) *The secretary of the Justice and Public Safety Cabinet or designee;*
 - (f) *The commissioner of the Department for Local Government or designee; and*
 - (g) *A representative designated by the Center for Rural Development.*
- (3) *The duties of the board shall be to:*
 - (a) *Develop and implement a strategic plan for and provide policy direction to the authority;*
 - (b) *Review performance reports from the partners named in the master agreement regarding deployment, operations, and administration of the network and its compliance with service level agreements with the Commonwealth;*
 - (c) *Monitor the results achieved through the partnership's strategy to develop new revenue streams and expand network usage through marketing and awareness programs;*
 - (d) *Approve fiscal planning for the authority including budget development, state appropriations management, cost-recovery schedules, grant administration, and billing services;*
 - (e) *Establish rates for services offered through the network and establish methods for customer account management; and*
 - (f) *Direct upgrades to technology as necessary.*
- (4) *The board shall meet at least semiannually and at other times upon the call of the chair.*
- (5) *The board may form committees or other subgroups as necessary to accomplish its duties and functions.*

➔Section 6. KRS 42.732 is amended to read as follows:

- (1) There is hereby created the Kentucky Information Technology Advisory Council to:
 - (a) Advise the executive director of the Commonwealth Office of Technology on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities;
 - (b) Advise the executive director of the Commonwealth Office of Technology on coordination among and across the organizational units of the executive branch of state government to prepare for, respond to, and prevent attacks; and
 - (c) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.
- (2) The Kentucky Information Technology Advisory Council shall consist of:
 - (a) The state budget director or a designee;
 - (b) The state librarian or a designee;
 - (c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

- (d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;
 - (e) Two (2) representatives of local government appointed by the Governor;
 - (f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;
 - (g) One (1) member of the media appointed by the Governor;
 - (h) The executive director of the Kentucky Authority for Educational Television;
 - (i) The chair of the Public Service Commission or a designee;
 - (j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;
 - (k) One (1) representative of the Administrative Office of the Courts;
 - (l) One (1) representative from the public schools system appointed by the Governor;
 - (m) One (1) representative of the Kentucky Chamber of Commerce;~~{and}~~
 - (n) The executive director of the Commonwealth Office of Technology; *and*
 - (o) *The executive director of the Kentucky Communications Network Authority or designee.*
- (3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.
 - (4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.
 - (5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.
- ➔Section 7. The General Assembly hereby confirms Executive Order 2016-513, dated July 12, 2016, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2017.

CHAPTER 90

(HB 222)

AN ACT relating to shock probation.

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

➔Section 1. KRS 439.265 is amended to read as follows:

- (1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.
- (2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

- (3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.
- (b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.
- (4) (a) If the defendant is a violent offender as defined in KRS 439.3401, the sentence shall not be probated under this section.
- (b) *The sentence shall not be probated under this section if the defendant has been convicted of:*
 - 1. *A violation of either KRS 507.040 or 507A.040 and a violation of KRS 189A.010 arising out of the same incident; or*
 - 2. *A violation of either KRS 507.050 or 507A.050 and a violation of KRS 189A.010 arising out of the same incident.*
- (5) If the defendant has been convicted of an offense under KRS 510.050, 510.080, 530.020, 530.064(1)(a), or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.
- (6) When a defendant has been convicted of a sex crime, as defined in KRS 17.500, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation of the defendant conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.
- (7) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.
- (8) The provisions of this section shall not apply where a sentence of death has been imposed.

Signed by Governor March 21, 2017.

CHAPTER 91

(HB 225)

AN ACT relating to public protection.

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

➔Section 1. KRS 61.365 is amended to read as follows:

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

- (1) Federal Bureau of Investigation special agents;

- (2) United States Secret Service special agents;
- (3) United States Marshal's service deputies;
- (4) Drug Enforcement Administration special agents;
- (5) Bureau of Alcohol, Tobacco, and Firearms special agents;
- (6) United States Forest Service special agents and law enforcement officers;
- (7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture;
- (8) United States Customs Service special agents;~~[-and]~~
- (9) United States National Park Service law enforcement rangers; *and*
- (10) *United States Mint Police of the United States Department of the Treasury:*
 - (a) *On the portion of United States Highway 31W that is located within the borders of the Fort Knox Military Reservation;*
 - (b) *Within a local jurisdiction, upon the written request of the head of the local law enforcement agency identifying a specific event and time frame for which assistance is requested; and*
 - (c) *Within the Commonwealth, upon the written request of the commissioner of the Department of Kentucky State Police identifying a specific event and time frame for which assistance is requested.*

Signed by Governor March 21, 2017.

CHAPTER 92

(HB 226)

AN ACT relating to reorganization.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.

- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.

- (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.

1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
1. Division of Distilled Spirits.
 2. Division of Malt Beverages.

- 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.

2. Office of Administrative Law Judges.
3. Division of Claims Processing.
4. Division of Security and Compliance.
5. Division of Information and Research.
6. Division of Ombudsman and Workers' Compensation Specialist Services.
7. Workers' Compensation Board.
8. Workers' Compensation Advisory Council.
9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:

- (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of ~~Finance Policy~~ and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
 - (t) *Office of Legislative and Regulatory Affairs.*
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.

- (e) Office of Policy and Audit.
- (f) Department for Facilities and Support Services.
- (g) Department of Revenue.
- (h) Commonwealth Office of Technology.
- (i) State Property and Buildings Commission.
- (j) Office of Equal Employment Opportunity and Contract Compliance.
- (k) Kentucky Employees Retirement Systems.
- (l) Commonwealth Credit Union.
- (m) State Investment Commission.
- (n) Kentucky Housing Corporation.
- (o) Kentucky Local Correctional Facilities Construction Authority.
- (p) Kentucky Turnpike Authority.
- (q) Historic Properties Advisory Commission.
- (r) Kentucky Tobacco Settlement Trust Corporation.
- (s) Kentucky Higher Education Assistance Authority.
- (t) Kentucky River Authority.
- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.

3. Division of Engineering.
4. Division of Fisheries.
5. Division of Information and Education.
6. Division of Wildlife.
7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.

- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Communications and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of the Ombudsman, and the Governor's Office of Electronic Health Information.
 - (a) The Office of Communications and Administrative Review shall include oversight of administrative hearings and communications with internal and external audiences of the cabinet. The Office of

Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

- (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
- (c) The Office of Inspector General shall be responsible for:
 - 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 - 2. Licensing and regulatory functions as the secretary may delegate;
 - 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; and
 - 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.

- (d) The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
 - (e) The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies,

plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and the Kentucky Commission on Community Volunteerism and Services. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (10) The Office of ~~*Finance*~~~~*Policy*~~ and Budget shall provide central review and oversight of budget, contracts, *and cabinet finances*~~[legislation, policy, grant management, boards and commissions, and administrative regulations]~~. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; ~~and~~
- (13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; *and*
- (14) *The Office of Legislative and Regulatory Affairs shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.*

➔Section 3. KRS 211.596 is amended to read as follows:

- (1) The Pediatric Cancer Research Trust Fund Board is hereby created for the purpose of administering and distributing funds from the trust created under KRS 211.595. The board shall be composed of nine (9) members to be appointed as follows:
 - (a) A specialist in pediatric oncology nominated by ~~*Norton*~~~~[the Kossair]~~ Children's Hospital to be appointed by the Governor;
 - (b) A specialist in pediatric oncology nominated by the University of Kentucky Children's Hospital to be appointed by the Governor;
 - (c) A representative nominated by Kentucky Chapters of the Leukemia and Lymphoma Society to be appointed by the Governor;
 - (d) A representative nominated by Kentucky offices of the American Cancer Society to be appointed by the Governor;

- (e) Three (3) citizens, one (1) of whom shall be a pediatric cancer survivor, or parent thereof, to be appointed by the Governor from a list of six (6) citizens nominated by Kentucky offices of the American Cancer Society;
 - (f) The secretary of the Cabinet for Health and Family Services, or the secretary's designee; and
 - (g) The commissioner of the Department for Public Health, or the commissioner's designee.
- (2) The board shall be attached to the Cabinet for Health and Family Services for administrative purposes.
 - (3) The secretary of the Cabinet for Health and Family Services shall convene the first meeting of the board within sixty (60) days of June 24, 2015.
 - (4) Board members shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.
 - (5) The term of each appointed member shall be four (4) years.
 - (6) A member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.
 - (7) A majority of the full membership of the board shall constitute a quorum.
 - (8) At the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.
 - (9) The board shall meet at least two (2) times annually, but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.

➔Section 4. The General Assembly hereby confirms Executive Order 2016-892, dated December 16, 2016, to the extent that it is not otherwise confirmed or superseded by this Act, which reorganized the Cabinet for Health and Family Services, Office of Administration and Technology Services by:

- (1) Creating the Division of Procurement Services and Grant Oversight to be headed by a director appointed by the Secretary of the Cabinet for Health and Family Services pursuant to KRS 12.050 who shall report to the executive director;
- (2) Creating the Division of Eligibility Systems which shall be headed by a director appointed by the Secretary of the Cabinet for Health and Family Services pursuant to KRS 12.050 who shall report to the executive director; and
- (3) Changing the name of the Division of Accounting and Procurement Services to the Division of General Accounting and the name of the Division of Systems Management to the Division of Social Support Systems.

➔Section 5. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Signed by Governor March 21, 2017.

CHAPTER 93

(HB 227)

AN ACT relating to physical therapists.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

PHYSICAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

- 1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;*
- 2. Enhance the states' ability to protect the public's health and safety;*
- 3. Encourage the cooperation of member states in regulating multistate physical therapy practice;*
- 4. Support spouses of relocating military members;*
- 5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and*
- 6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.*

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- 1. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;*
- 2. "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both;*
- 3. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes but is not limited to substance abuse issues;*
- 4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient or client is located at the time of the patient or client encounter;*
- 5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, completion of, or both participation in and completion of educational and professional activities relevant to practice or area of work;*
- 6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action;*
- 7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way;*
- 8. "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission;*
- 9. "Home state" means the member state that is the licensee's primary state of residence;*
- 10. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation;*
- 11. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state;*
- 12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant;*
- 13. "Member state" means a state that has enacted the Compact;*
- 14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege;*
- 15. "Physical therapist" means an individual who is licensed by a state to practice physical therapy;*

16. *"Physical therapist assistant" means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy;*
17. *"Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist;*
18. *"Physical Therapy Compact Commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the Compact;*
19. *"Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants;*
20. *"Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege;*
21. *"Rule" means a regulation, principle, or directive promulgated by the commission that has the force of law; and*
22. *"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.*

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state shall:

1. *Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;*
2. *Have a mechanism in place for receiving and investigating complaints about licensees;*
3. *Notify the commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;*
4. *Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B. of this Compact;*
5. *Comply with the rules of the commission;*
6. *Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and*
7. *Have continuing competence requirements as a condition for license renewal.*

B. Upon adoption of this statute, the member state may obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. sec. 534 and 42 U.S.C. sec. 14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

SECTION 4. COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. *Hold a license in the home state;*
2. *Have no encumbrance on any state license;*
3. *Be eligible for a compact privilege in any member state in accordance with Section 4.D., G., and H. of this Compact;*
4. *Have not had any adverse action against any license or compact privilege within the previous two (2) years;*
5. *Notify the commission that the licensee is seeking the compact privilege within a remote state or states;*
6. *Pay any applicable fees, including any state fee, for the compact privilege;*

7. *Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a compact privilege; and*
 8. *Report to the commission adverse action taken by any nonmember state within thirty (30) days from the date the adverse action is taken.*
- B. The compact privilege is valid until the expiration date of the home license. The licensee shall comply with the requirements of Section 4.A. of this Compact to maintain the compact privilege in the remote state.*
- C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.*
- D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, enforce any one (1) or combination of the following:*
1. *Remove a licensee's compact privilege in the remote state for a specific period of time;*
 2. *Impose fines; and*
 3. *Take any other necessary actions to protect the health and safety of its citizens.*
- The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.*
- E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:*
1. *The home state license is no longer encumbered; and*
 2. *Two (2) years have elapsed from the date of the adverse action.*
- F. Once an encumbered license in the home state is restored to good standing, the licensee shall meet the requirements of Section 4.A. of this Compact to obtain a compact privilege in any remote state.*
- G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:*
1. *The specific period of time for which the compact privilege was removed has ended;*
 2. *All fines have been paid; and*
 3. *Two (2) years have elapsed from the date of the adverse action.*
- H. Once the requirements of Section 4.G. of this Compact have been met, the license shall meet the requirements in Section 4.A. of this Compact to obtain a compact privilege in a remote state.*

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one (1) of the following as the home state:

- A. Home of record;*
- B. Permanent Change of Station (PCS); or*
- C. State of current residence if it is different than the PCS state or home of record.*

SECTION 6. ADVERSE ACTIONS

- A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.*
- B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.*
- C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that this participation shall remain nonpublic if required by the member state's laws. Member states shall require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from that other member state.*

- D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.*
- E. A remote state may:*
- 1. Take adverse actions as set forth in Section 4.D. of this Compact against a licensee's compact privilege in the state;*
 - 2. Issue subpoenas for the production of evidence and for hearings and investigations that require the attendance and testimony of witnesses. Subpoenas issued by a physical therapy licensing board in a party state for the production of evidence, the attendance and testimony of witnesses, or both from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the evidence, witnesses, or both are located; and*
 - 3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.*
- F. Joint Investigations*
- 1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.*
 - 2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.*

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

- A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:*
- 1. The commission is an instrumentality of the Compact states.*
 - 2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.*
 - 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.*
- B. Membership, Voting, and Meetings*
- 1. Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board.*
 - 2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.*
 - 3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.*
 - 4. The member state board shall fill any vacancy occurring in the commission.*
 - 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.*
 - 6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.*
 - 7. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.*
- C. The commission has the following powers and duties:*
- 1. Establish the fiscal year of the commission;*

2. *Establish bylaws;*
3. *Maintain its financial records in accordance with the bylaws;*
4. *Meet and take any actions consistent with the provisions of this Compact and the bylaws;*
5. *Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force of law and shall be binding in all member states;*
6. *Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;*
7. *Purchase and maintain insurance and bonds;*
8. *Borrow, accept, or contract for services of personnel, including but not limited to employees of a member state;*
9. *Hire employees, elect or appoint officers, fix compensation, define duties, grant these individuals appropriate authority to carry out the purposes of the Compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;*
10. *Accept, receive, utilize, and dispose of any appropriate donations and grants of money, equipment, supplies, materials, and services. At all times the commission shall avoid any appearance of impropriety, conflict of interest, or both;*
11. *Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property. At all times the commission shall avoid any appearance of impropriety;*
12. *Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property;*
13. *Establish a budget and make expenditures;*
14. *Borrow money;*
15. *Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and any other interested persons as designated in this Compact and the bylaws;*
16. *Provide and receive information from, and cooperate with, law enforcement agencies;*
17. *Establish and elect an executive board; and*
18. *Perform any other necessary or appropriate functions to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.*

D. *The Executive Board*

The executive board may act on behalf of the commission according to the terms of this Compact.

1. *The executive board shall be composed of nine (9) members:*
 - a. *Seven (7) voting members who are elected by the commission from the current membership of the commission;*
 - b. *One (1) ex officio, nonvoting member from the recognized national physical therapy professional association; and*
 - c. *One (1) ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.*
2. *The ex officio members shall be selected by their respective organizations.*
3. *The commission may remove any member of the executive board as provided in bylaws.*
4. *The executive board shall meet at least once annually.*
5. *The executive board shall have the following duties and responsibilities:*

- a. *Recommend to the entire commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;*
- b. *Ensure Compact administration services are appropriately provided, contractual or otherwise;*
- c. *Prepare and recommend the budget;*
- d. *Maintain financial records on behalf of the commission;*
- e. *Monitor Compact compliance of member states and provide compliance reports to the commission;*
- f. *Establish additional committees as necessary; and*
- g. *Other duties as provided in rules or bylaws.*

E. Meetings of the Commission

- 1. *All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 9 of this Compact.*
- 2. *The commission, the executive board, or other committees of the commission may convene in a closed, nonpublic meeting if the commission, executive board, or other committees of the commission need to discuss:*
 - a. *Noncompliance of a member state with its obligations under the Compact;*
 - b. *The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;*
 - c. *Current, threatened, or reasonably anticipated litigation;*
 - d. *Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;*
 - e. *Accusing any person of a crime or formally censuring any person;*
 - f. *Disclosure of trade secrets or commercial or financial information that is privileged or confidential;*
 - g. *Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
 - h. *Disclosure of investigative records compiled for law enforcement purposes;*
 - i. *Disclosure of information related to any investigative reports prepared by, on behalf of, or for use of the commission or another committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or*
 - j. *Matters specifically exempted from disclosure by federal or member state statute.*
- 3. *If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.*
- 4. *The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action shall be identified in these minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.*

F. Financing of the Commission

- 1. *The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.*
- 2. *The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.*

3. *The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which shall be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all member states.*
4. *The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.*
5. *The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.*

G. *Qualified Immunity, Defense, and Indemnification*

1. *The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. Nothing in this paragraph shall be construed to protect any person from suit, liability, or both for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.*
2. *The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. Nothing in this paragraph shall be construed to prohibit that person from retaining his or her own counsel.*
3. *The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.*

SECTION 8. DATA SYSTEM

- A. *The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.*
- B. *Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the commission, including:*
 1. *Identifying information;*
 2. *Licensure data;*
 3. *Adverse actions against a license or compact privilege;*
 4. *Nonconfidential information related to alternative program participation;*
 5. *Any denial of application for licensure, and the reason or reasons for the denial; and*

6. *Other information that may facilitate the administration of this Compact, as determined by the rules of the commission.*
- C. *Investigative information pertaining to a licensee in any member state shall only be available to other party states.*
- D. *The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.*
- E. *Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.*
- F. *Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.*

SECTION 9. RULEMAKING

- A. *The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted under this section. Rules and amendments shall become binding as of the date specified in each rule or amendment.*
- B. *If a majority of the legislatures of the member states reject a rule within four (4) years of the date of adoption of the rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then the rule shall have no further effect in any member state.*
- C. *Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.*
- D. *Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a Notice of Proposed Rulemaking:*
 1. *On the Web site of the commission or other publicly accessible platform; and*
 2. *On the Web site of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.*
- E. *The Notice of Proposed Rulemaking shall include:*
 1. *The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;*
 2. *The text of the proposed rule or amendment and the reason for the proposed rule;*
 3. *A request for comments on the proposed rule from any interested person; and*
 4. *How interested persons may submit notice to the commission of their intention to attend the public hearing and submit any written comments.*
- F. *Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.*
- G. *The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:*
 1. *At least twenty-five (25) persons;*
 2. *A state or federal governmental subdivision or agency; or*
 3. *An association having at least twenty-five (25) members.*
- H. *If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.*
 1. *All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.*
 2. *Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.*

3. *All hearings shall be recorded. A copy of the recording shall be made available on request.*
4. *Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.*
- I. *Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.*
- J. *If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.*
- K. *The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.*
- L. *Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that requires immediate adoption in order to:*
 1. *Meet an imminent threat to public health, safety, or welfare;*
 2. *Prevent a loss of commission or member state funds;*
 3. *Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or*
 4. *Protect public health and safety.*
- M. *The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the Web site of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.*

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. *The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated under this Compact shall have standing as statutory law.*
2. *All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact that may affect the powers, responsibilities or actions of the commission.*
3. *The commission shall be entitled to receive service of process in any judicial or administrative proceeding relating to this Compact, and shall have standing to intervene for all purposes in any judicial or administrative proceeding relating to this Compact. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this Compact, or promulgated rules.*

B. Default, Technical Assistance, and Termination

1. *If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the commission shall:*
 - a. *Provide written notice to the defaulting state and other member states regarding any one (1) or any combination of the following: the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and*
 - b. *Provide remedial training and specific technical assistance regarding the default.*

2. *If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.*
3. *Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.*
4. *A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.*
5. *The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the commission and the defaulting state.*
6. *The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of this litigation, including reasonable attorney's fees.*

C. *Dispute Resolution*

1. *Upon request by a member state, the commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.*
2. *The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.*

D. *Enforcement*

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

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

- A. *The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.*
- B. *Any state that joins the Compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force of law on the day the Compact becomes law in that state.*
- C. *Any member state may withdraw from this Compact by enacting a statute repealing the Compact.*
 1. *A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.*

2. *Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.*
- D. *Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.*
- E. *This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.*

SECTION 12. APPLICABILITY TO KENTUCKY STATE GOVERNMENT

In order to clarify the effect of certain provisions of this Compact and to ensure that the rights and responsibilities of the various branches of government are maintained, the following shall be in effect in this state:

- A. *By entering into this Compact, this state authorizes the licensing board as defined in Section 2.19. of this Compact and as created by KRS Chapter 327 to implement the provisions of this Compact.*
- B. *Notwithstanding any provision of this Compact to the contrary:*
 1. *When a rule is adopted pursuant to Section 9 of this Compact, the licensing board of this state as defined by Section 2.19. of this Compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the licensing board of this state as defined by Section 2.19. of this Compact to promulgate a rule adopted by the Physical Therapy Compact Commission as an administrative regulation pursuant to KRS Chapter 13A shall result in the initiation of the process for withdrawal as set forth in Section 11 of this Compact. Nothing in these provisions shall negate the applicability and effect of Section 9.K. of this Compact to this state.*
 2. *If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of Section 10 of this Compact shall apply. If the procedures under Section 10 of this Compact fail to resolve an issue, the provisions of Section 11 of this Compact shall apply.*
 3. *If the Physical Therapy Compact Commission created by Section 7 of this Compact exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted under this Compact, then such an action by the Commission shall be invalid and have no force or effect.*
- C. *Section 7.F. of this Compact pertaining to the financing of the Commission shall not be interpreted to obligate the general fund of this state. Any funds used to finance this Compact shall be from money collected pursuant to KRS 327.080.*
- D. *This Compact shall apply only to those physical therapists or physical therapist assistants who practice or work under a compact privilege.*

SECTION 13. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate its purposes. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or the Compact's applicability to any government, agency, person, or circumstance is held invalid, it shall not affect the validity of the remainder of this Compact and its applicability to any government, agency, person, or circumstance. If this Compact is held contrary to the constitution of any party state, the Compact shall remain in full effect as to the remaining party states, and shall remain in full effect in the affected party state as to all severable matters.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any statutory provision to the contrary, any physical therapist or physical therapist assistant holding a valid, unencumbered license or certificate to practice or work in another state may practice or work in the Commonwealth of Kentucky under a compact privilege if the person otherwise meets the requirements of Section 1 of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

For any criminal background check required by Section 1 of this Act, an applicant shall submit to a nationwide criminal background investigation by means of a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation at the applicant's expense. The results of the national and state criminal background check shall be sent to the board by the Department of Kentucky State Police.

➔Section 4. KRS 327.020 is amended to read as follows:

- (1) No person shall practice or hold himself ***or herself*** out as being able to practice physical therapy ~~in any manner whatsoever~~ unless ***the person***; ~~he~~
 - (a)
 1. Meets the educational requirements of this chapter; ~~he~~
 2. Is licensed in accordance with the provisions of this chapter; ~~he~~
 3. Is in good standing with the board; and
 4. ***Holds a*** ~~his~~ license ***that*** is not suspended or revoked; ***or***
 - (b) ***Is eligible to practice or work through a compact privilege granted under Section 1 of this Act.***
- (2) ~~Provided, however, that~~ Nothing contained in this chapter shall prohibit any person licensed in this state under any other law from engaging in the practice for which ~~that~~ ~~such~~ person is duly licensed. Nothing contained in this chapter shall prohibit routine and restorative services performed by personnel employed by hospitals, physicians, or licensed health care facilities as relates to physical therapists. This chapter does not preclude certified occupational therapists, respiratory technicians, or respiratory therapists from practicing as defined in the United States Department of Health, Education and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel." ~~Provided further that~~ Persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in ~~this~~ ~~such~~ employment.
- (3) ~~(2)~~ A licensed physical therapist may hold himself ***or herself*** out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following ***the physical therapist's*** ~~his~~ name, in connection with his ***or her*** profession.
- (4) ~~(3)~~ It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to use in connection with ***the person or entity's*** ~~his or its~~ name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless ~~that~~ ~~such~~ physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.
- (5) ~~(4)~~ The provisions of ***subsections*** ~~subsection~~ (1), (2), and (4) ~~(3)~~ of this section shall not apply to volunteer health practitioners providing services under KRS 39A.350 to 39A.366.

Signed by Governor March 21, 2017.

CHAPTER 94

(HB 242)

AN ACT relating to the Department of Insurance.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.

- (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.

6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.

- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. ***Division of Insurance Product Regulation***~~[Property and Casualty Division].~~
 - 2. ***Division of Administrative Services***~~[Health and Life Division].~~
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. ***Division of Consumer Protection***~~[Division].~~
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.

2. Division of Fiscal Management.
3. Division of Budgets.
4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.

1. Office of Public Affairs.
2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.

- (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.

6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.

- 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.
 - (4) Kentucky Commission on Human Rights.
 - (5) Kentucky Commission on Women.

- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 2. KRS 304.2-020 is amended to read as follows:

- (1) The commissioner is the head of the Department of Insurance.
- (2) The commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his or her merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened. Nothing contained in this subsection shall prohibit the commissioner of the Department of Insurance from being reappointed.
- (3) The following divisions are established within the Department of Insurance and shall be headed by directors appointed by the secretary of the Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:
 - (a) ***Division of Insurance Product Regulation***~~[Property and Casualty Division]~~;
 - (b) ***Division of Administrative Services***~~[Health and Life Division]~~;
 - (c) Division of Financial Standards and Examination;
 - (d) Division of Agent Licensing;
 - (e) Division of Insurance Fraud Investigation;
 - (f) ***Division of Consumer Protection***~~[Division]~~; and
 - (g) Division of Kentucky Access.

➔Section 3. KRS 304.2-063 is amended to read as follows:

There is created within the ***Division of Consumer Protection***~~[Division]~~ the position of ombudsman.

➔Section 4. On or before July 1, 2019, the commissioner of the Department of Insurance is authorized to apply for a waiver under 42 U.S.C. sec. 18052 or any other applicable provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, with respect to health insurance for a plan year beginning on or after January 1, 2018. Upon the approval of a waiver application made pursuant to this section, the state plan proposed under the waiver shall not be implemented unless the plan has been enacted into law by an Act of the General Assembly. The commissioner is also authorized to request a continuation of the approved waiver in a manner consistent with state and federal law. No further legislative action shall be required for a continuation of an approved waiver.

Signed by Governor March 21, 2017.

CHAPTER 95

(HB 245)

AN ACT relating to state tax administration.

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

➔Section 1. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

- (1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of

any administrative regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines the lists would be helpful to taxpayers in understanding the application of the tax laws.

- (2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county where the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.
- (3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law.
- (4) The department shall advise on all questions respecting the construction of state revenue laws and its application to various classes of taxpayers and property.
- (5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.
- (8) ***Notwithstanding KRS Chapter 13A***, the department may research the fields of taxation, finance, and local government administration, ~~and~~ publish its findings, ***respond to the public's and taxpayers' questions, and publish its responses***, as the commissioner may deem wise. ***To assist taxpayers and the public in understanding and interpreting the tax laws, the department may include examples as part of any response or publication. The examples may include demonstrative, nonexclusive lists of items, if the department determines that the list would be helpful to taxpayers in understanding the application of the tax laws.***
- (9) The department may promulgate administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to the administrative regulations.
- (10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.
- (11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:
 - (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

- (b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.
- (12) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Signed by Governor March 21, 2017.

CHAPTER 96

(HB 255)

AN ACT relating to wages and hours in nonprofit entities.

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

➔Section 1. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) "Department" means the Department of Workplace Standards in the Labor Cabinet;
 - (c)
 1. "Wages" includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
 2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210(5), "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210(6), "wages" shall include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his or her employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than **two hundred ten (210) days**~~seven (7) months~~ in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community board for mental health or individuals with an intellectual disability established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care;
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

- (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
- (c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and
- 2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he or she shall not designate less than an entire county as a locality;
- (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and
- (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.
- (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Signed by Governor March 21, 2017.

CHAPTER 97

(HB 262)

AN ACT relating to federally mandated background checks and declaring an emergency.

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

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

- (1) *Each employee of the cabinet, including contract staff, with access to or use of federal tax information shall submit to a criminal background investigation by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.*
- (2) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

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

- (1) *Each employee of the Department of Revenue, including contract staff, with access to or use of federal tax information shall submit to a criminal background investigation by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.*
- (2) *The Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔Section 3. Whereas the background checks authorized in this Act are vital for child and public safety and ensure ongoing federal funding compliance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 98

(HB 270)

AN ACT relating to manufactured housing.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *The owner of a manufactured home that has been converted to real estate in accordance with KRS 186A.297 may detach or sever the home from the real property only by filing an affidavit of severance with the clerk of the county in which the affidavit of conversion originally took place and in which the real estate is located. The affidavit of severance shall include the following information:*
 - (a) *The manufacturer and, if applicable, the model name of the manufactured home;*
 - (b) *The legal description of the real property on which the manufactured home is or was placed, with the source of title setting forth the book and page number of how the owner of the real estate acquired the property;*
 - (c) *The book and page number where the previous affidavit of conversion was filed of record;*
 - (d) *A Class B1 or B2 Seal as required under KRS 227.600;*
 - (e) *Certification of an attorney that, as of the date of the titling of the severance, there are no security interests or liens in the manufactured home that have not been released by the secured party and that the title to the real estate marketable, free, and clear of liens, or certification of any holder of a security interest in the manufactured home of:*
 1. *The amount of any existing security interest; and*
 2. *The secured party's consent to issuance of a title;*
 - (f) *The owner's affidavit that the manufactured home has previously been or will be removed from the described real estate within thirty (30) days of the date of filing the affidavit of conversion, and that, before moving the manufactured home the owner will apply for and receive:*
 1. *A certificate of title as required under KRS 186A.070; and*
 2. *A manufactured home registration as required under KRS 186.675; and*
 - (g) *There shall be a limit of one (1) affidavit of severance issued to an owner on a property.*
- (2) *When the county clerk files the affidavit of severance, the county clerk shall provide a copy to:*
 - (a) *The property valuation administrator for adjustment of the real property tax rolls of the county; and*
 - (b) *The Transportation Cabinet, Department of Vehicle Regulation.*
- (3) *An owner who fails to file an affidavit of severance prior to removal of the manufactured home shall be liable for actual damages or five hundred dollars (\$500), whichever is greater, payable to any first lien holder of record, or if no such lien holder exists, to be payable to the clerk of the county in which the*

affidavit of conversion first took place, upon notice to the clerk that the manufactured home was not removed within thirty (30) days of the date of filing of the affidavit of severance.

- (4) *The county clerk shall receive a fee of sixteen dollars (\$16) for the service provided under this section.*
- (5) *If the owner of the manufactured home provides inaccurate or fraudulent information to the county clerk, the clerk shall not be held liable in any subsequent action relating to the severance of the manufactured home from the real estate.*
- (6) *For the purposes of this section, "owner" means the party who holds the legal title to the real estate where the manufactured home is located prior to being moved. It shall not include the party who is acquiring the manufactured home.*

Signed by Governor March 21, 2017.

CHAPTER 99

(HB 271)

AN ACT relating to education requirements for cosmetologists.

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

➔Section 1. KRS 317A.050 is amended to read as follows:

- (1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:
 - (a) Is of good moral character and temperate habit;
 - (b) Is at least sixteen (16) years of age;
 - (c) Has a high school diploma, General Educational Development (GED) diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (d) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has graduated from a licensed school of cosmetology requiring:
 - 1. One thousand eight hundred (1,800) hours within ten (10) years of submitting an application for licensure *for applicants enrolled prior to the effective date of this Act in a school of cosmetology licensed in Kentucky;*
 - 2. *One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants enrolling on or after the effective date of this Act in a school of cosmetology licensed in Kentucky; or*
 - 3. *One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants who graduated from a school of cosmetology licensed in a jurisdiction outside of the Commonwealth;*
 - (e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and
 - (f) Has paid a fee of twenty-five dollars (\$25).
- (2) The cosmetologist board shall issue a cosmetologist license to any person who:
 - (a) Has a high school diploma, General Educational Development (GED) diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and
 - (d) Has paid a fee of twenty-five dollars (\$25).

- (3) The cosmetologist board shall issue a license to act as a nail technician to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology within ten (10) years of submitting an application for licensure;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;
 - (d) Has a high school diploma, General Educational Development (GED) diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school; and
 - (e) Has paid a fee of twenty-five dollars (\$25).
- (4) (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he or she shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.
- (b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.
- (c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection.
- (5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:
- (a) Has paid a fee of thirty-five dollars (\$35);
 - (b) Has a high school diploma, General Educational Development (GED) diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school and one (1) year experience as a licensed cosmetologist; and
 - (c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall verify to the board the completion of one thousand (1,000) hours. For out-of-state verification, an applicant shall provide official certification from the board or agency that certifies schools in that other state of licensure verifying the applicant has completed a course of instruction consisting of at least one thousand (1,000) hours and not less than six (6) months at one (1) school providing the instruction.
- (6) The cosmetologist board shall issue a license to teach cosmetology to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has a high school diploma, General Educational Development (GED) diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (c) Has held an apprentice instructor license for at least six (6) months;
 - (d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and
 - (e) Has paid a fee of fifty dollars (\$50).
- (7) The cosmetologist board may issue a license to operate a school of cosmetology to any person who:
- (a) Has complied with the administrative regulations promulgated by the board including but not limited to administrative regulations governing the necessary equipment, supplies, and facilities;

- (b) Has furnished proof to the board that the school of cosmetology is needed, that he or she is otherwise qualified to operate a school of cosmetology, and that he or she intends to establish a bona fide school for the education and training of competent cosmetologists and that he or she will employ a sufficient number of licensed instructors of cosmetology to conduct the school;
- (c) Has as manager at all times a person who is:
 - 1. Licensed as an instructor;
 - 2. Charged with the responsibility of ensuring that all applicable statutes and administrative regulations are complied with; and
 - 3. Responsible for having a sufficient number of licensed instructors of cosmetology to conduct the school.

The designated manager shall be approved by the board before a license may be issued;

- (d) Complies with the administrative regulations promulgated by the board including but not limited to those regarding courses, curriculum, and hours of instruction;
 - (e) Otherwise complies with this chapter;
 - (f) Has paid a fee of one thousand five hundred dollars (\$1,500);
 - (g) Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;
 - (h) Any student enrolling in the school shall pay a fee of fifteen dollars (\$15) to the board before enrollment in the school shall be allowed; and
 - (i) The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand five hundred dollars (\$1,500).
- (8) Licenses and permits issued by the board may be renewed upon receipt, beginning July 1 through July 31 of each year. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired, and the appropriate restoration fee required by subsection (11) of this section shall apply.
- (9) The annual renewal license or permit fee for each type of license or permit renewal shall be as follows:
- (a) Apprentice cosmetologist -- \$20;
 - (b) Cosmetologist -- \$20;
 - (c) Nail technician -- \$20;
 - (d) Beauty salon -- \$25;
 - (e) Nail salon -- \$25;
 - (f) Apprentice instructor of cosmetology -- \$25;
 - (g) Instructor of cosmetology -- \$35;
 - (h) Cosmetology school -- \$150;
 - (i) Threading permit -- \$20; and
 - (j) Threading facility permit -- \$25.
- (10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:
- (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) Instructor of cosmetology -- \$100;

- (e) Cosmetologist out-of-state -- \$120; and
 - (f) Instructor out-of-state -- \$200.
- (11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:
- (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) Beauty salon -- \$75;
 - (e) Nail salon -- \$75;
 - (f) Cosmetology school -- \$750;
 - (g) Instructor -- \$100; and
 - (h) Apprentice instructor -- \$75.
- (12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:
- (a) Cosmetologists shall retake and pass the practical examination only;
 - (b) Apprentice cosmetologists shall complete four hundred fifty (450) additional hours training in a licensed school of cosmetology and pass all the prescribed examinations;
 - (c) Instructors of cosmetology shall retake and pass both the practical and theory examination;
 - (d) Nail technicians shall retake and pass the practical and theory examination; and
 - (e) The appropriate restoration fee as set forth in subsection (11) of this section shall be required.
- (13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists, and nail technicians shall pay a fee of fifty dollars (\$50) for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, cosmetology school, or nail technicians group shall apply for a permit, but shall not be required to pay the fee.
- (14) The board shall issue a permit for threading and may promulgate administrative regulations that set out requirements for the practice of threading upon payment of a fee of twenty dollars (\$20). Threading shall be conducted in a licensed beauty salon or facility permitted to engage in threading, and the board may promulgate administrative regulations for facilities and the required sanitation standards.
- (15) The fee for certification shall be twenty dollars (\$20).
- (16) The fee for a duplicate license shall be twenty-five dollars (\$25).

➔Section 2. KRS 317A.090 is amended to read as follows:

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

- (1) The name of the proposed school;
- (2) A statement that the proposed school is authorized to operate educational programs beyond secondary education;
- (3) As a prerequisite of graduation, a prescribed course of instruction of not less than **one thousand five**~~eighteen~~ hundred ~~(1,500)~~~~(1,800)~~ hours in the case of a cosmetology school to be given within an uninterrupted period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays; except that in the state area vocational schools, the **one thousand five**~~eighteen~~ hundred ~~(1,500)~~~~(1,800)~~ hours of instruction may be offered according to the schedule for other vocational classes in the school;
- (4) Courses of instruction in histology of the hair, skin, nails, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics, diseases of the skin, hair, and glands, and massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring,

bleaching, and tinting the hair and such other courses as may be prescribed by administrative regulation of the board;

- (5) Such facilities, equipment, materials, and qualified instructors and apprentice instructors as may be required by administrative regulations of the board adopted pursuant to this chapter, but in no event shall any cosmetology school have fewer than one (1) licensed instructor per twenty (20) students present for instruction;
- (6) The fee for the initial license of a cosmetology school shall be one thousand dollars (\$1,000);
- (7) No cosmetology school, after being licensed for the first time, shall serve the public until three hundred (300) hours of instruction has been taught; and
- (8) In compliance with KRS 317A.070, the board may revoke or suspend any license issued by it if, in the judgment of the board, the school is not following the requirements as set out in this chapter or such school does not comply with the administrative regulations promulgated by the board in order to regulate the conduct of the school and in order to supervise the proper education of the students.

Signed by Governor March 21, 2017.

CHAPTER 100

(HB 410)

AN ACT relating to operator's licenses and personal identification cards and making an appropriation therefor.

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

➔Section 1. KRS 186.410 is amended to read as follows:

- (1) Every person except those exempted by KRS 186.420 and 186.430 shall, before operating a motor vehicle, motorcycle, or moped upon a highway, secure an operator's license as provided in this chapter.
- (2) Except as provided in ***Section 3 of this Act*** ~~[KRS 186.412]~~, all original, renewal, and duplicate licenses for the operation of motor vehicles, motorcycles, or mopeds shall be ***applied for with*** ~~issued by~~ the circuit clerk in the county of the applicant's residence, ***or through alternative technology, including a Transportation Cabinet mobile unit, and issued by the Transportation Cabinet. Subject to the provisions of Section 13 of this Act,*** applications for renewal licenses shall be made every ***eight (8)*** ~~four (4)~~ years within the birth month of the applicant. A license shall not be issued until the application has been certified by the cabinet and the applicant has, if required under ***Section 29 of this Act*** ~~[KRS 186.640]~~, successfully completed the examinations required under KRS 186.480.
- (3) All ~~color photo~~ personal identification cards shall be issued under the provisions of ***Sections 4, 5, and 6 of this Act*** ~~[KRS 186.412]~~.
- (4) A person ***under the age of eighteen (18) years who applies for an instruction permit shall*** ~~may~~, at any time between the age of sixteen (16) and before the person's eighteenth birthday, enroll in one (1) of the following driver training programs:
 - (a) A driver's education course administered by a school district;
 - (b) A driver training school licensed pursuant to KRS Chapter 332 which offers a course meeting or exceeding the minimum standards established by the Transportation Cabinet; or
 - (c) State traffic school. The person may seek to enroll in state traffic school before the person's eighteenth birthday. Persons enrolling in state traffic school pursuant to this paragraph shall not be required to pay a fee.
- (5) If, for any reason, a person fails to successfully complete the required driver training pursuant to subsection (4) of this section within one (1) year of being issued an operator's license, the Transportation Cabinet shall enroll the person in state traffic school and cancel or suspend the operator's driving privileges until the person completes state traffic school.
- (6) ***Any applicant for any initial or renewal instruction permit, operator's license, or personal identification card under KRS 186.400 to 186.640 may apply for either:***

- (a) *A voluntary travel ID document; or*
- (b) *A standard document that does not meet standards for federal identification purposes.*

➔SECTION 2. KRS 186.412 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *As used in this section, "applicant" means a person who is a citizen or permanent resident of the United States.*
- (2) *An applicant shall apply for an instruction permit or operator's license in the office of the circuit clerk of the county where the applicant lives, or through alternative technology. Except as provided in Section 7 of this Act, the application form shall require the applicant's:*
 - (a) *Full legal name and signature;*
 - (b) *Date of birth;*
 - (c) *Social Security number or a letter from the Social Security Administration declining to issue a Social Security number;*
 - (d) *Sex;*
 - (e) *Present Kentucky resident address, exclusive of a post office box address alone;*
 - (f) *Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;*
 - (g) *A brief physical description of the applicant;*
 - (h) *Proof of the applicant's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and*
 - (i) *Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.*
- (3) *In addition to the information identified in subsection (2) of this section, a permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:*
 - (a) *An I-551 card with a photograph of the applicant; or*
 - (b) *A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (Expiration Date). Employment authorized."*
- (4) *Upon application for an operator's license under this section, the circuit clerk shall capture a photograph of the applicant in accordance with the requirements of subsection (1) of Section 6 of this Act.*
- (5)
 - (a) *Except as provided in paragraph (b) of this subsection, the circuit clerk shall electronically scan the documents required for application under this section and shall electronically forward the application, supporting documents, and the photograph of the applicant to the Transportation Cabinet. Upon completion of any required examinations under Section 37 of this Act, the circuit clerk shall present the applicant with a temporary operator's license or instruction permit, which shall be valid for thirty (30) days until a permanent operator's license or instruction permit is mailed to the applicant by the Transportation Cabinet.*
 - (b) *The circuit clerk shall only electronically scan the birth certificate of an individual applying for a voluntary travel ID instruction permit or operator's license. If the applicant is not seeking such a permit or license, the circuit clerk shall not electronically scan the applicant's birth certificate.*
 - (c) *An applicant for an operator's license or instruction permit shall not be required to surrender the applicant's birth certificate for image capture, image storage, or image transmission to any entity, including the federal government, unless express consent is given by the applicant during the course of obtaining a voluntary travel ID license or permit.*
- (6) *An applicant shall swear an oath to the circuit clerk as to the truthfulness of the statements contained in the form.*

➔SECTION 3. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "applicant" means a person who is not a United States citizen and has not been granted status as a permanent resident of the United States.*
- (2) *An applicant shall apply for an instruction permit or operator's license to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office. An applicant under this section shall complete the application identified in Section 2 of this Act, along with other documents required under this section. The cabinet shall keep an electronic copy of the documentation submitted with the application and shall capture a photograph of the applicant in accordance with subsection (1) of Section 6 of this Act.*
- (3) *The application form under this section shall be accompanied by the applicant's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the applicant's international driving permit. The Transportation Cabinet shall verify the information submitted under this subsection through the Systematic Alien Verification for Entitlements (SAVE) Program.*
- (4) *The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the applicant's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the applicant's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.*
- (5)
 - (a) *The Transportation Cabinet shall verify and validate the immigration status and personal identity of an applicant under this section through federal government systems and databases.*
 - (b) *If an applicant's identity and immigration status is validated, the cabinet shall capture a photograph of the applicant, and scan the required documents into the cabinet's database.*
 - (c) *If the applicant successfully completes any examinations required under Section 37 of this Act, or if an examination is not required, the Transportation Cabinet shall present the applicant with a temporary operator's license or instruction permit, which shall be valid for thirty (30) days until a permanent operator's license or instruction permit is mailed to the applicant.*
 - (d) *An applicant under this section shall only be issued a standard operator's license or instruction permit.*
- (6)
 - (a) *An applicant shall apply to renew an operator's license, or obtain a duplicate operator's license, at the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.*
 - (b) *If an applicant has any type of change in his or her immigration status, the applicant shall apply to update the operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office within ten (10) days.*
- (7) *An applicant shall swear an oath to the Transportation Cabinet as to the truthfulness of the statements contained in the form.*
- (8)
 - (a) *Except as provided in paragraph (b) of this subsection, an initial or renewal operator's license issued to an applicant who is not a special status individual shall be valid for a period equal to the length of time the applicant's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is valid, or eight (8) years, whichever time period is shorter.*
 - (b) *An initial or renewal operator's license shall be valid for a period of one (1) year if the applicant is not a special status individual and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular operator's license.*

➔SECTION 4. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "applicant" means a person who is a citizen or permanent resident of the United States.*
- (2) *The Transportation Cabinet shall issue a personal identification card to an applicant who:*

- (a) *Is a Kentucky resident;*
 - (b) *Applies in person in the office of the circuit clerk in his or her county of residence or through alternative technology; and*
 - (c) *Complies with the provisions of this section.*
- (3) *Upon application for a personal identification card under this section, the circuit clerk shall capture a photograph of the applicant in accordance with subsection (1) of Section 6 of this Act.*
- (4)
 - (a) *Except as provided in paragraph (b) of this subsection, the circuit clerk shall electronically scan the documents required for application under this section and shall electronically forward the application, supporting documents, and the photograph of the applicant to the Transportation Cabinet. The circuit clerk shall present the applicant with a temporary personal identification card, which shall be valid for thirty (30) days until a permanent personal identification card is mailed to the applicant by the Transportation Cabinet.*
 - (b) *The circuit clerk shall only electronically scan the birth certificate of an individual applying for a voluntary travel ID personal identification card. If the applicant is not seeking such a document, the circuit clerk shall not electronically scan the applicant's birth certificate.*
 - (c) *An applicant for a personal identification card shall not be required to surrender the applicant's birth certificate for image capture, image storage, or image transmission to any entity, including the federal government, unless express consent is given by the applicant during the course of obtaining a voluntary travel ID personal identification card.*
- (5)
 - (a) *An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under Section 2 of this Act, except if an applicant does not have a fixed, permanent address, the applicant may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the applicant treatment or services and attesting that the applicant is a resident of Kentucky. An applicant who does not have a fixed, permanent address shall not be issued a voluntary travel ID personal identification card.*
 - (b) *It shall be permissible for the application form for a personal identification card to include as an applicant's most current resident address a mailing address or an address provided on a voter registration card.*
 - (c) *If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner, or possessor to use the address for purposes of obtaining the personal identification card.*
- (6)
 - (a) *Every applicant for a personal identification card under this section shall swear an oath to the circuit clerk as to the truthfulness of the statements contained on the application form.*
 - (b) *A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.*
- (7) *A personal identification card issued under this section shall be valid for a period of eight (8) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance.*
- (8)
 - (a) *An applicant may be issued a personal identification card if the applicant currently holds a valid Kentucky instruction permit or operator's license, except that a person shall not hold more than one (1) license or personal identification card that is a voluntary travel ID identity document which indicates that it meets the requirements for federal identification under Pub. L. No. 109-13 Title II, as referenced in subsection (8) of Section 6 of this Act.*
 - (b) *If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification card shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.*

➔SECTION 5. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "applicant" means a person who is not a United States citizen and has not been granted status as a permanent resident of the United States.*
- (2) *The Transportation Cabinet shall issue a personal identification card to an applicant who:*
 - (a) *Is a Kentucky resident;*
 - (b) *Applies in person to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office; and*
 - (c) *Complies with the provisions of this section.*
- (3) *Upon application for a personal identification card under this section, the cabinet shall capture a photograph of the applicant in accordance with subsection (1) of Section 6 of this Act.*
- (4) *The cabinet shall electronically scan the documents required for application under this section, supporting documents, and the photograph of the applicant into the cabinet's database.*
- (5)
 - (a) *An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under Section 2 of this Act, along with other documents required under this section, except if an applicant does not have a fixed, permanent address, the applicant may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the applicant treatment or services and attesting that the applicant is a resident of Kentucky. An applicant who does not have a fixed, permanent address shall not be issued a voluntary travel ID personal identification card.*
 - (b) *It shall be permissible for the application form for a personal identification card to include as an applicant's most current resident address a mailing address or an address provided on a voter registration card.*
 - (c) *If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner, or possessor to use the address for purposes of obtaining the personal identification card.*
- (6) *The application form under this section shall be accompanied by the applicant's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the applicant to be in the United States. The Transportation Cabinet shall verify the information submitted under this subsection through the Systematic Alien Verification for Entitlements (SAVE) Program.*
- (7) *The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the applicant's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the applicant's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.*
- (8)
 - (a) *The Transportation Cabinet shall verify and validate the immigration status and personal identity of an applicant under this section through federal government systems and databases.*
 - (b) *If an applicant's identity and immigration status is validated, the cabinet shall capture a photograph of the applicant, and scan the required documents into the cabinet's database, and shall present the applicant with a temporary personal identification card, which shall be valid for thirty (30) days until a permanent personal identification card is mailed to the applicant.*
 - (c) *An applicant under this section shall only be issued a standard personal identification card.*
- (9)
 - (a) *An applicant shall apply to renew a personal identification card, or obtain a duplicate personal identification card, at the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.*
 - (b) *If a person has any type of change in his or her immigration status, the person shall apply to update with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office within ten (10) days.*

- (10) (a) *Every applicant for a personal identification card under this section shall swear an oath to the Transportation Cabinet as to the truthfulness of the statements contained on the application form.*
- (b) *A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.*
- (11) (a) *Except as provided in paragraph (b) of this subsection, an initial or renewal personal identification card issued to an applicant who is not a special status individual shall be valid for a period equal to the length of time the applicant's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is valid, or eight (8) years, whichever time period is shorter.*
- (b) *An initial or renewal personal identification card shall be valid for a period of one (1) year if:*
 - 1. *The applicant is not a special status individual and the applicant's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card; or*
 - 2. *The personal identification card is issued to a person who does not have a fixed, permanent address.*

➔SECTION 6. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (9) of this section, the Transportation Cabinet shall issue operator's licenses and personal identification cards bearing a photograph of the applicant and other information the cabinet may deem appropriate to qualified applicants under this chapter. When taking the photograph, the applicant shall be prohibited from wearing sunglasses, veils, scarves, or any other attire that obscures or creates shadows upon any features of the applicant's face as determined by the clerk. An applicant shall be required to remove eyewear that obstructs the iris or the pupil of the eyes and shall not take any action to obstruct a photograph of his or her facial features. The face shall be visible from the crown to the base of the chin and from ear to ear. Any person who refuses to remove attire prohibited by this subsection as directed by the person taking the application shall be prohibited from receiving an operator's license or personal identification card.*
- (2) *An operator's license or personal identification card issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant submits adequate proof that he or she does not have a Social Security number, the Transportation Cabinet shall assign the applicant a unique identifying number.*
- (3) *The license or personal identification card shall also designate by color coding and using the phrase "under 21" if the licensee or card holder is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).*
- (4) *The cabinet shall provide on each operator's license and personal identification card space for a notation that the holder of the license or personal identification card has expressed to the circuit clerk the person's willingness to make an anatomical gift under KRS 311.1917. If a person who has made a declaration under this subsection wishes to rescind that declaration, the person shall notify the Kentucky Circuit Court Clerks' Trust for Life, which shall remove the notation from his or her records.*
- (5) *An operator's license issued pursuant to this chapter shall be designated a Class D license.*
- (6) *A person shall not have more than one (1) operator's license.*
- (7) *Upon marriage, dissolution of marriage, or any other qualifying event, if a person seeks to change his or her name, the person shall make a name change with the Social Security Administration prior to applying for an operator's license or a personal identification card and shall provide the circuit clerk with the person's marriage license, divorce decree, or other documentation. The name issued on the identity document shall match the person's name as recorded with the Social Security Administration. Unless a person is eligible to renew his or her identity document at the time of the name change, the fee charged under this section shall be for a corrected identity document as set forth in Section 21 of this Act.*
- (8) *An identity document issued under this chapter shall contain a denotation that either:*

- (a) *The identity document is a voluntary travel ID identity document that complies with the security standards set forth by Pub. L. No. 109-13 Title II, and may be used for identification for federal purposes; or*
- (b) *The identity document shall not be used for federal identification purposes.*
- (9) (a) *The Transportation Cabinet may provide for the issuance of an instruction permit, operator's license, or personal identification card without a photograph if there is good cause for the omission based in documented religious objections. The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the criteria and requirements for obtaining an operator's license, instruction permit, or personal identification card without a photograph.*
- (b) *An applicant for an initial instruction permit, operator's license, or personal identification card without a photograph shall apply to the Transportation Cabinet in Frankfort or a Transportation Cabinet field office. The application shall be processed solely by the Transportation Cabinet in the same manner as in subsection (5) of Section 3 and subsection (8) of Section 5 of this Act.*
- (c) *An operator's license, instruction permit, or personal identification card issued without a photograph shall denote on its face that it shall not be accepted by any federal agency for identification or any other federal purpose.*

➔SECTION 7. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *The Transportation Cabinet shall issue to any felony offender, if the felony offender is eligible, released from the Kentucky Department of Corrections or a Federal Bureau of Prisons facility located in Kentucky on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. An offender who wishes to obtain a personal identification card or operator's license shall provide proper documentation to comply with the provisions of this section.*
- (2) *Proper documentation under subsection (1) of this section shall consist of:*
 - (a) *The offender's certificate of birth;*
 - (b) *A copy of the offender's resident record card and parole certificate or notice of discharge;*
 - (c) *A photograph of the offender, printed on plastic card or paper; and*
 - (d) *A release letter that shall contain the offender's:*
 - 1. *Full legal name, subject to the information available to the Kentucky Department of Corrections or a Federal Bureau of Prisons facility located in Kentucky;*
 - 2. *Discharge/release date;*
 - 3. *Signature;*
 - 4. *Social Security number;*
 - 5. *Date of birth;*
 - 6. *Present Kentucky address where he or she resides; and*
 - 7. *Physical description.*
- (3) *The Transportation Cabinet shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole or the United States Probation Office, a personal identification card or, if the felony offender is eligible, an operator's license. An offender who wishes to obtain a personal identification card or operator's license shall provide proper documentation to comply with the provisions of this section.*
- (4) *Proper documentation under subsection (3) of this section shall consist of:*
 - (a) *The offender's certificate of birth;*
 - (b) *The offender's sentencing order;*
 - (c) *A photograph of the offender, printed on plastic card or paper; and*
 - (d) *A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:*

1. *Full legal name, subject to the information available to the Division of Probation and Parole or the United States Probation Office;*
 2. *Signature;*
 3. *Social Security number;*
 4. *Date of birth;*
 5. *Present Kentucky address where he or she resides; and*
 6. *Physical description.*
- (5) *The offender shall present the documentation identified in subsection (2) or (4) of this section to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531.*
 - (6) *Except as provided in subsection (7) of this section, the circuit clerk shall process applications for operator's licenses and personal identification cards under this section in the same manner as in Sections 2 and 4 of this Act.*
 - (7) *The Transportation Cabinet may enter into an agreement with the Kentucky Department of Corrections, the United States Probation Office, or the Federal Bureau of Prisons to use a mobile unit to begin the issuance process in this section.*

➔SECTION 8. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a photo personal identification card to a child two (2) to fifteen (15) years of age.*
- (2) *A parent or guardian may apply for a child identification card under this section at the circuit clerk's office in the county in which the child resides. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under Section 2 of this Act. The card shall not contain the child's Social Security number.*
- (3)
 - (a) *If the child's parent or guardian wishes to obtain a travel ID child identification card, the circuit clerk shall scan the application and supporting documentation, capture a photograph of the child in accordance with the provisions of subsection (1) of Section 6 of this Act, and submit the application, documentation, and photograph to the Transportation Cabinet, who shall issue the child identification card by mail.*
 - (b) *If the child's parent or guardian does not wish to obtain a travel ID child identification card, the circuit clerk shall scan the application, capture a photograph of the child in accordance with the provisions of subsection (1) of Section 6 of this Act, and submit the application and photograph to the Transportation Cabinet, who shall issue the child identification card by mail.*
 - (c) *A parent or guardian applying under this section shall not be required to surrender the child's birth certificate for image capture, image storage, or image transmission to any entity, including the federal government, unless express consent is given by the parent or guardian during the course of obtaining a voluntary travel ID child identification card.*
- (4) *A child identification card issued under this section shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.*
- (5) *The fee for a child identification card shall be six dollars (\$6). Four dollars (\$4) of the fee shall be deposited into the KYTC photo license account established in Section 23 of this Act. Two dollars (\$2) of the fee shall be deposited in the circuit court clerk salary account established in Section 22 of this Act.*
- (6) *A child identification card shall expire every two (2) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be six dollars (\$6), with the fee distributed in the same manner as the fee for an initial card as described in subsection (5) of this section.*

- (7) *If a parent or guardian complies with the requirements of Sections 10 and 11 of this Act, the parent or guardian may request that the child identification card issued to a minor child under this section be a voluntary travel ID identity document under Section 10 of this Act.*
- (8) *A child identification card issued under this section shall contain a denotation that either:*
 - (a) *The child identification card is a voluntary travel ID identity document that complies with the security standards set forth by Pub. L. No. 109-13, Title II, and may be used for identification for federal purposes; or*
 - (b) *The identity document shall not be used for federal identification purposes.*

➔SECTION 9. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *If a resident of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the resident, or the resident's spouse or dependents, may renew a Class D operator's license issued under this section by mail. If the resident, or his or her spouse or dependents, was issued an "under 21" operator's license, upon the date of the license holder's twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."*
- (2) *A resident of the Commonwealth renewing an operator's license by mail under subsection (1) of this section may have a personal designee apply to the circuit clerk on behalf of the resident to renew the resident's operator's license. An operator's license being renewed by mail under subsection (1) of this section shall be issued a license without a photograph if there is no photo on file. If there is no photo on file, the license shall show in the space provided for the photograph the legend "valid without photo and signature."*
- (3)
 - (a)
 - 1. *If a resident of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.*
 - 2. *The spouse or dependent of a person identified in subparagraph 1. of this paragraph shall be afforded the same consideration identified in that subparagraph regarding the renewal of an expired operator's license.*
 - (b) *A person who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.*
 - (c) *A person who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.*
 - (d) *If a resident of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his or her twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.*
- (4)
 - (a) *Any person who served in the active Armed Forces of the United States, including the Coast Guard, and any member of the National Guard or Reserve Component who completed the member's term of service and was released, separated, discharged, or retired therefrom under either an honorable discharge or a general under honorable conditions discharge, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this chapter bear the word "veteran" on the face or the back of the license or personal identification card.*
 - (b) *The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214, DD-2, or NGB-22 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread forms presented.*

➔SECTION 10. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *The Transportation Cabinet shall develop a system of issuing voluntary travel ID instruction permits, operator's licenses, commercial driver's licenses, and personal identification cards.*
 - (2) *The development of the system identified in subsection (1) of this section shall include but not be limited to the:*
 - (a) *Acquisition of equipment and information technology systems and services;*
 - (b) *Modification, conversion, or upgrade of the cabinet's existing databases, equipment, and information technology systems;*
 - (c) *Establishment of electronic connectivity with any other state's driver licensing department, federal agency, national or regional association, or business. Electronic connectivity under this paragraph shall be limited to the sharing of the minimum amount of information necessary to validate information supplied by an applicant, process the application, and produce and distribute the identity document. The Transportation Cabinet shall limit any access to the databases developed under this chapter in accordance with the Driver's Privacy Protection Act, 18 U.S.C. sec. 2721;*
 - (d) *Creation of a new design for operator's licenses, commercial driver's licenses, instruction permits, and personal identification cards that will meet the minimum content, design, and security standards required under this section;*
 - (e) *Collection, management, and retention of personal information and identity documents; and*
 - (f) *Development and implementation of a comprehensive security plan to ensure the security and integrity of the department's:*
 1. *Employees;*
 2. *Facilities;*
 3. *Storage systems;*
 4. *Production of operator's licenses, commercial driver's licenses, instruction permits, and personal identification cards; and*
 5. *Collection and retention of personal information and identity documents.*
 - (3) *On or after January 1, 2019:*
 - (a) *A person who applies for an initial Kentucky instruction permit, operator's license, or personal identification card under Section 2, 3, 4, or 5 of this Act, including any person who establishes residency in the state, may apply for either a voluntary travel ID or a standard instruction permit, operator's license, or personal identification card;*
 - (b) *A person who applies for the renewal of an instruction permit, operator's license, or personal identification card under Section 2, 3, 4, or 5 of this Act may apply for either a voluntary travel ID or a standard instruction permit, operator's license, or personal identification card; and*
 - (c) *A person who holds a voluntary travel ID operator's license, and applies for and passes all necessary examinations for a commercial driver's license under KRS Chapter 281A, shall receive a voluntary travel ID commercial driver's license. This paragraph shall not apply to a person who is not a citizen or permanent resident of the United States.*
 - (4) *The fees for initial, renewal, duplicate, or corrected voluntary travel ID or standard operator's licenses, instruction permits, or personal identification cards shall be as set forth under Section 21 of this Act.*
 - (5) *A voluntary travel ID identity document issued by the cabinet may be used for all state purposes authorized for identity documents otherwise issued under KRS 186.400 to 186.640 and KRS Chapter 281A.*
 - (6) *The Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A that set standards for the establishment of a voluntary travel ID identity document system, including but not limited to, the components of the system identified in subsection (2) of this section.*
- ➔SECTION 11. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:
- (1) *In addition to the information required under Sections 2, 3, 4, and 5 of this Act, an applicant for a voluntary travel ID instruction permit, operator's license, or personal identification card under Section 10*

of this Act shall present two (2) of the following documents upon application or renewal that show the name and physical residential address of the applicant:

- (a) Utility bill;*
 - (b) Current lease or rental agreement;*
 - (c) Bank statement;*
 - (d) Mortgage statement;*
 - (e) Telephone bill;*
 - (f) Current insurance policy;*
 - (g) State or federal tax return that is less than one (1) year old;*
 - (h) Pay slip or salary statement;*
 - (i) Record from an educational institution in Kentucky which establishes enrollment; or*
 - (j) Kentucky voter registration card.*
- (2) Any of the documents described in subsection (1) of this section that contains the name of the spouse of the applicant, together with a certified copy of the applicant's marriage license or marriage certificate, shall be considered acceptable documentation of proof of residence under subsection (1) of this section.*
 - (3) The Transportation Cabinet may promulgate administrative regulations under KRS Chapter 13A to identify additional documentation that would satisfy the proof of residence requirement under this section.*
 - (4) Unless otherwise specified, the documentation furnished under subsection (1) of this section must be less than sixty-one (61) days old.*
 - (5) A Kentucky post office box address is not sufficient proof of physical address for purposes of this section.*
 - (6) The cabinet may require additional proof of physical address if the cabinet questions the validity or authenticity of the proof of physical address submitted by the applicant.*
 - (7) In addition to the information required under Sections 2, 3, 4, and 5 of this Act, an applicant for a voluntary travel ID instruction permit, operator's license, or personal identification card under Section 10 of this Act shall present valid documentary evidence that the applicant:*
 - (a) Is a citizen or national of the United States;*
 - (b) Is an alien lawfully admitted for permanent or temporary residence in the United States;*
 - (c) Has conditional permanent resident status in the United States;*
 - (d) Has an approved application for asylum in the United States or has entered into the United States in refugee status;*
 - (e) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;*
 - (f) Has a pending application for asylum in the United States;*
 - (g) Has a pending or approved application for temporary protected status in the United States;*
 - (h) Has approved deferred action status; or*
 - (i) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.*

➔Section 12. KRS 186.401 is amended to read as follows:

As used in KRS 186.400 to 186.640:

- (1) "~~[-a-]~~Driver's license" means ~~[-shall mean-]~~ an operator's license issued pursuant to Sections 2, 3, and 6 of this Act;*
- (2) "Operator's license" unless otherwise indicated, includes a motor vehicle operator's license, a motorcycle operator's license, and a combination motor vehicle-motorcycle license; and*

- (3) "~~[KRS 186.412 and a]~~Commercial driver's license" ~~means~~~~[shall mean]~~ a license issued pursuant to KRS Chapter 281A.

➔Section 13. KRS 186.4101 is amended to read as follows:

- (1) A license to operate a motor vehicle, motorcycle, or moped shall be renewed every **eight (8)**~~[four (4)]~~ years **prior to its expiration**~~[during an applicant's birth month]~~. **Except as provided in Sections 1 and 3 of this Act**, a person seeking to renew an operator's license shall apply at the office of the circuit clerk in the county where **the person**~~[he]~~ resides **in accordance with Section 2 of this Act**~~[on a form furnished by the cabinet]~~.
- (2) **In order to accommodate the transition from a four (4) year licensing schedule to an eight (8) year licensing schedule, the Transportation Cabinet may, during the first four (4) years after the effective date of this Act, renew operator's licenses and personal identification cards with terms of both four (4) and eight (8) years.**
- (3) The fee to renew an operator's license shall be according to the schedule set forth in KRS 186.531.

➔Section 14. KRS 186.4125 is amended to read as follows:

- (1) **In order to apply for a voluntary travel ID identity document under Section 10 of this Act, the applicant shall present the applicant's certified birth certificate or a valid, unexpired, United States passport or Permanent Resident Card (Form I-551).**
- (2) For the purposes of KRS 186.400 to 186.640, an original hospital birth certificate signed by the attending physician shall be acceptable as certifying the birth date of an applicant for **a standard**~~[an]~~ instruction permit,~~{~~ ~~or}~~ operator's license, **or personal identification card.**
- (3) **The Transportation Cabinet shall apply to the United States Department of Homeland Security for an exception to allow birth certificates described in subsection (2) of this section to be used to apply for a voluntary travel ID identity document under Section 10 of this Act.**

➔Section 15. KRS 186.430 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, a person over the age of sixteen (16) who is a United States citizen and who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:
 - (a) The person possesses a valid license issued by the person's home state;
 - (b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and
 - (c) The person's home state accords similar privileges to licensed residents of Kentucky.
- (2) A person who is a United States citizen but who is not a resident of Kentucky who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.
- (3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued by the person's country of domicile and shall not be required to obtain a Kentucky driver's license.
- (4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of **Section 3 of this Act**~~[KRS 186.412. Except as provided in this subsection, an operator's license issued to a person who is not a United States citizen, who has not been granted status as a permanent resident of the United States, and who is not a special status individual but is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal operator's license shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular operator's license]~~. The cabinet may at any time refuse or discontinue the exemptions authorized in this section for any grounds and may deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

- (5) A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this state has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this state under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

➔Section 16. KRS 186.435 is amended to read as follows:

- (1) ***Except as provided in subsection (4) of this section,*** a licensed driver who becomes a Kentucky resident shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license in the office of the circuit clerk in the county where the person has established his or her domicile.
- (2) The ***Transportation Cabinet***~~circuit clerk~~ shall, before issuing a person a Kentucky operator's license, verify through the National Drivers Register that the person applying for a Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction.
- (3) A person who is not a United States citizen but who has been granted permanent resident status by the United States Department of ***Homeland Security, United States Bureau of Citizenship and Immigration Services***~~Justice, Immigration and Naturalization Service~~, and who is a Kentucky resident, shall follow the same procedures for applying for an original, renewal, transfer, or duplicate operator's license as persons who are United States citizens.
- (4) ***A licensed driver from another jurisdiction who:***
- (a) ***Is not a United States citizen;***
 - (b) ***Has not been granted permanent resident status by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services;***
 - (c) ***Becomes a Kentucky resident; and***
 - (d) ***Wishes to operate a motor vehicle;***

shall, within thirty (30) days of establishing residency, apply for a Kentucky operator's license under the provisions of Section 3 of this Act.

➔Section 17. KRS 186.442 is amended to read as follows:

- (1) The ***Transportation Cabinet***~~circuit clerk~~ shall, before issuing or renewing a Kentucky operator's license, verify through the National Drivers Register that the person applying for an initial or renewal Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction.
- (2) If the person's operator's license or driving privilege is currently suspended or revoked in another licensing jurisdiction for a traffic offense where the conviction for the offense is less than five (5) years old, the ***Transportation Cabinet***~~circuit clerk~~ shall not issue the person an initial or renewal Kentucky operator's license until the person resolves the matter in the other licensing jurisdiction and complies with the provisions of this chapter.
- (3) A person whose operator's license has been suspended or revoked in another licensing jurisdiction, or the holder of a Kentucky operator's license whose driving privileges have been suspended in another licensing jurisdiction, may be issued a Kentucky license, or may renew a Kentucky license if:
- (a) The conviction causing the suspension or revocation is more than five (5) years old;
 - (b) The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
 - (c) The person has been a resident of the Commonwealth for at least five (5) years prior to the date of application for issuance or renewal.
- (4) (a) A person applying for an operator's license under subsection (3) of this section shall submit an application to the ***circuit clerk in the person's county of residence, who shall electronically scan the application and supporting documents, along with a photograph of the applicant captured in accordance with subsection (1) of Section 6 of this Act, into the cabinet database***~~Transportation Cabinet in Frankfort or a Transportation Cabinet field office~~.

(b) *The circuit clerk shall review the person's documentation, including the person's photograph, in the cabinet database. If the documentation is verified as accurate, and if the person successfully completes any examinations required under Section 37 of this Act and pays the reinstatement fee required under Section 24 of this Act, the circuit clerk shall present the applicant with a temporary operator's license, which shall be valid for thirty (30) days, until a permanent operator's license is mailed to the applicant by the Transportation Cabinet.* ~~The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, determine if the person is eligible to receive a license under subsection (3) of this section.~~

~~(c) If the Transportation Cabinet determines the person may be issued a license under subsection (3) of this section, the cabinet shall issue the person an official form that the applicant shall present to the circuit clerk of the county where the person resides. Upon receipt of this notice, and completion of any examinations required under KRS 186.480, the circuit clerk shall issue the applicant a license under subsection (3) of this section.~~

(5) A person issued a Kentucky operator's license in accordance with subsection (3) of this section shall be issued an operator's license marked "Valid in Kentucky Only" and shall sign a statement that the person understands that he or she may be subject to arrest and detention if stopped by a law enforcement officer in another state while operating a motor vehicle on this restricted license.

(6) If a person granted a license under subsection (3) of this section satisfies the requirements to have the suspension or revocation in another state lifted, the person shall apply to the circuit clerk to be issued a new license without the restrictions outlined in subsection (3) of this section.

(7) The provisions of subsection (3) of this section shall not apply to a commercial driver's license.

➔Section 18. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid intermediate motor vehicle operator's license issued under KRS 186.452 or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of ***the fee set forth in Section 21 of this Act*** ~~a six dollar (\$6) fee pursuant to KRS 186.531~~.

(3) (a) An instruction permit to operate a motor vehicle shall be valid for three (3) years and may be renewed. An instruction permit to operate a motorcycle shall be valid for one (1) year and may be renewed one (1) time.

(b) Except as provided in KRS 186.415, a person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.

(c) A person who was under eighteen (18) years of age at the time of application for an instruction permit and is eighteen (18) years of age or older shall have the instruction permit a minimum of one hundred eighty (180) days and complete a driver training program under KRS 186.410(4) before applying for an operator's license.

(d) A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license.

- (e) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.
- (f) In accordance with KRS 15A.352(5), a person whose motorcycle instruction permit has expired may apply to the circuit clerk to receive a motorcycle operator's license or endorsement if the person presents proof of successful completion of a motorcycle safety education course approved by the Justice and Public Safety Cabinet under KRS 15A.350 to 15A.366.
- (4) (a) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.
- (b) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
- (c) The requirements of paragraph (b) of this subsection shall not apply to a motor vehicle instruction permit holder being supervised on a multiple-vehicle driving range by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school.
- (5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including but not limited to emergencies, involvement in school-related activities, or involvement in work-related activities.
- (6) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school, a person with an instruction permit who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.
- (7) A violation under subsection (4), (5), or (6) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.
- (8) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.
- (9) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

➔Section 19. KRS 186.490 is amended to read as follows:

The circuit clerk of each county shall:

- (1) Comply with all rules and regulations issued by the cabinet under KRS 186.400 relating to his *or her* duties;
- (2) Act for the cabinet for the purpose of issuing temporary operator's licenses, ~~and~~ instruction permits, *and personal identification cards*;
- (3) Administer the oath required by *Sections 2 and 4 of this Act* ~~KRS 186.412~~ to the applicant without fee;
- (4) Report and remit monthly to the state all moneys collected during the preceding month and remit a copy of all applications taken by him during the same period to the Transportation Cabinet. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten percent (10%) of the amount due. Penalties collected under this section shall be paid into the State Treasury as a part of the revenue collected under KRS 186.531; *and*
- (5) Keep adequate records of all moneys collected and remitted to the state ~~and~~

vehicle/MC OL

| | | | | | | |
|--------------------------|-------------|-------------|------------|-------------|------------|-------------|
| <i>(initial/renewal)</i> | <i>\$58</i> | <i>\$28</i> | <i>\$7</i> | <i>\$13</i> | <i>\$0</i> | <i>\$10</i> |
|--------------------------|-------------|-------------|------------|-------------|------------|-------------|

PIDC

| | | | | | | |
|--------------------------|-------------|-------------|------------|------------|------------|------------|
| <i>(initial/renewal)</i> | <i>\$28</i> | <i>\$11</i> | <i>\$8</i> | <i>\$6</i> | <i>\$3</i> | <i>\$0</i> |
|--------------------------|-------------|-------------|------------|------------|------------|------------|

PIDC

| | | | | | | |
|------------------------------|-------------|------------|------------|---------------|---------------|------------|
| <i>(duplicate/corrected)</i> | <i>\$15</i> | <i>\$6</i> | <i>\$4</i> | <i>\$3.50</i> | <i>\$1.50</i> | <i>\$0</i> |
|------------------------------|-------------|------------|------------|---------------|---------------|------------|

- (3) *The fees imposed for standard operator's licenses, instruction permits, and personal identification cards shall be as follows. The fees received shall be distributed as shown in the table. The fees shown, unless otherwise noted, are for an eight (8) year period:*

| | | | | | | |
|-------------|------------|-------------|----------------|-------------|-----------|-------------|
| <i>Card</i> | <i>Fee</i> | <i>Road</i> | <i>License</i> | <i>AOC</i> | <i>GF</i> | <i>MC</i> |
| <i>Type</i> | | <i>Fund</i> | <i>Fund</i> | <i>Fund</i> | | <i>Fund</i> |

OL

| | | | | | | |
|--------------------------|-------------|-------------|------------|------------|------------|------------|
| <i>(initial/renewal)</i> | <i>\$43</i> | <i>\$28</i> | <i>\$7</i> | <i>\$8</i> | <i>\$0</i> | <i>\$0</i> |
|--------------------------|-------------|-------------|------------|------------|------------|------------|

OL (Under 21)

| | | | | | | |
|------------------------|-------------|---------------|------------|---------------|------------|------------|
| <i>(Up to 4 years)</i> | <i>\$15</i> | <i>\$7.50</i> | <i>\$4</i> | <i>\$3.50</i> | <i>\$0</i> | <i>\$0</i> |
|------------------------|-------------|---------------|------------|---------------|------------|------------|

*Any OL, MC OL**or combination*

| | | | | | | |
|-------------------------------|-------------|---------------|------------|------------|---------------|------------|
| <i>(duplicate /corrected)</i> | <i>\$15</i> | <i>\$5.25</i> | <i>\$4</i> | <i>\$4</i> | <i>\$1.75</i> | <i>\$0</i> |
|-------------------------------|-------------|---------------|------------|------------|---------------|------------|

Motor vehicle IP

| | | | | | | |
|------------------|-------------|------------|------------|------------|------------|------------|
| <i>(3 years)</i> | <i>\$15</i> | <i>\$5</i> | <i>\$4</i> | <i>\$4</i> | <i>\$2</i> | <i>\$0</i> |
|------------------|-------------|------------|------------|------------|------------|------------|

Motorcycle IP

| | | | | | | |
|-----------------|-------------|------------|------------|------------|------------|------------|
| <i>(1 year)</i> | <i>\$15</i> | <i>\$5</i> | <i>\$4</i> | <i>\$1</i> | <i>\$1</i> | <i>\$4</i> |
|-----------------|-------------|------------|------------|------------|------------|------------|

Motorcycle OL

| | | | | | | |
|--------------------------|-------------|----------------|------------|---------------|------------|-------------|
| <i>(initial/renewal)</i> | <i>\$43</i> | <i>\$17.50</i> | <i>\$8</i> | <i>\$7.50</i> | <i>\$0</i> | <i>\$10</i> |
|--------------------------|-------------|----------------|------------|---------------|------------|-------------|

*Combination**vehicle/MC OL*

| | | | | | | |
|--------------------------|-------------|-------------|------------|-------------|------------|-------------|
| <i>(initial/renewal)</i> | <i>\$53</i> | <i>\$25</i> | <i>\$7</i> | <i>\$11</i> | <i>\$0</i> | <i>\$10</i> |
|--------------------------|-------------|-------------|------------|-------------|------------|-------------|

PIDC

| | | | | | | |
|--------------------------|-------------|------------|------------|------------|------------|------------|
| <i>(initial/renewal)</i> | <i>\$23</i> | <i>\$8</i> | <i>\$8</i> | <i>\$4</i> | <i>\$3</i> | <i>\$0</i> |
|--------------------------|-------------|------------|------------|------------|------------|------------|

PIDC

| | | | | | | |
|------------------------------|-------------|------------|------------|---------------|---------------|------------|
| <i>(duplicate/corrected)</i> | <i>\$15</i> | <i>\$6</i> | <i>\$4</i> | <i>\$3.50</i> | <i>\$1.50</i> | <i>\$0</i> |
|------------------------------|-------------|------------|------------|---------------|---------------|------------|

*PIDC**(no fixed address)**(Sections 4(5) and*

| | | | | | | |
|--------------------------|-------------|------------|------------|------------|------------|------------|
| <i>5(5) of this Act)</i> | <i>\$10</i> | <i>\$0</i> | <i>\$5</i> | <i>\$5</i> | <i>\$0</i> | <i>\$0</i> |
|--------------------------|-------------|------------|------------|------------|------------|------------|

- (4) *The fee for a second or subsequent duplicate personal identification card for a person who does not have a fixed, permanent address, as allowed under subsection (5) of Section 4 of this Act and subsection (5) of Section 5 of this Act, shall be the same as for a duplicate regular personal identification card.*
- (5) *The fee for a four (4) year original or renewal license issued pursuant to Section 13 of this Act shall be fifty percent (50%) of the amount shown in subsections (2) and (3) of this section. The distribution of fees shown*

in subsections (2) and (3) of this section shall also be reduced by fifty percent (50%) for licenses that are issued for four (4) years.

- (6) *Any fee for any identity document applied for using alternative technology under Sections 1 and 4 of this Act shall be distributed in the same manner as a document applied for with the circuit clerk.*
- (7)
 - (a) *An applicant for an original or renewal operator's license, commercial driver's license, motorcycle operator's license, or personal identification card shall be requested by the clerk to make a donation to promote an organ donor program.*
 - (b) *A donation under this subsection shall be two dollars (\$2) for any license or card with an eight (8) year term, and one dollar (\$1) for any license or card with a term of less than eight (8) years.*
 - (c) *The donation under this subsection shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, motorcycle operator's license, or personal identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof.*
 - (d) *The fee shall be paid to the circuit clerk and shall be forwarded by the clerk on a monthly basis to the Kentucky Circuit Court Clerks' Trust for Life, and such moneys are hereby appropriated to be used exclusively for the purpose of promoting an organ donor program. A donation under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal.*
- (8) *In addition to the fees outlined in this section, the following individuals, upon application for an initial or renewal operator's license, instruction permit, or personal identification card, shall pay an additional application fee of thirty dollars (\$30), which shall be deposited in the road fund:*
 - (a) *An applicant who is not a United States citizen or permanent resident and who applies under Section 3 or 5 of this Act; or*
 - (b) *An applicant who is applying for a instruction permit, operator's license, or personal identification card without a photo under subsection (9) of Section 6 of this Act.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

- (1) *The circuit court clerk salary account is created as a trust and agency account in the State Treasury to be administered by the Administrative Office of the Courts. The account shall consist of the portion of fees directed to the account under Sections 21 and 24 of this Act and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the account.*
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the account shall become a part of the account and shall not lapse.*
- (4) *Moneys in the account shall be used for the purposes of hiring additional deputy circuit clerks and providing salary adjustments to deputy circuit clerks and are hereby appropriated for these purposes.*

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

- (1) *The KYTC photo license account is created within the road fund, to be administered by the Transportation Cabinet. The account shall consist of the portion of fees directed to the account under Section 21 of this Act and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the account.*
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the account shall become a part of the account and shall not lapse.*
- (4) *Moneys in the account shall be used for the purposes of verifying, creating, and distributing secure photo instruction permits, operator's licenses, and personal identification cards and are hereby appropriated for these purposes.*

➔Section 24. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

- (1) Any person who is not a resident of Kentucky;

- (2) Any person under the age of sixteen (16);
- (3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
- (4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of KRS 186.442;
- (5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
- (6) Any applicant adjudged incompetent by judicial decree;
- (7) Any person who in the opinion of the Department of Kentucky State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
- (8) Any person who is unable to understand highway warnings or direction signs in the English language;
- (9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
- (10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
- (11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
- (12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
- (13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars (\$15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars (\$5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars (\$10) of the fee shall be deposited by the State Treasurer *into the circuit court clerk salary account established in Section 22 of this Act* ~~in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses~~. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his or her license revoked pursuant to KRS 159.051.

➔Section 25. KRS 186.535 is amended to read as follows:

- (1) From the *portion of the* fee for each *eight (8)* ~~four (4)~~ year original or renewal operator's license *which is assigned to the road fund under Section 21 of this Act, two dollars (\$2)* ~~fifty cents (\$0.50)~~ shall be credited to a special account within the road fund, and shall be used exclusively by the Transportation Cabinet for the purpose of expanding the state driver education program, and *two dollars (\$2)* ~~fifty cents (\$0.50)~~ shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes. *The distribution of fees under this subsection shall be reduced by fifty percent (50%) for licenses issued for a four (4) year term in accordance with Section 13 of this Act.*
- (2) From the fee for each annual registration of a motorcycle pursuant to KRS 186.050, four dollars (\$4) shall be credited to a special account within the road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.050.

➔Section 26. KRS 186.540 is amended to read as follows:

- (1) Except as provided in ~~subsections~~ ~~subsection~~ (2) and (3) of this section, when any person, after applying for or receiving an operator's license *or personal identification card*, moves from the address named in the application or *on the identity document* ~~license~~ issued to *the person*, ~~him~~ or when the name of a *identity document holder* ~~licensee~~ is changed, by marriage or otherwise, the person shall within ten (10) days after the

change apply to the circuit clerk in *the person's*~~his~~ county of residence for the issuance of a corrected license. *The fee for a corrected license shall be as set forth in Section 21 of this Act.*

- (2) If *an identity document*~~a license~~ holder's street name or postal address is changed and the *person*~~license holder~~ has not moved to a new residence, the *person*~~license holder~~ shall apply to the circuit clerk for a corrected *identity document*~~license~~, *which shall be issued free of charge.*
- (3) *If a person receives an identity document that contains an error, the person shall apply to the circuit clerk for a corrected identity document, which shall be issued free of charge.*

➔Section 27. KRS 186.570 is amended to read as follows:

- (1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:
 - (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.
 - (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.
 - (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.
 - (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.
 - (e) That person has been issued a license without making proper application for it, as provided in *Section 2 or 3 of this Act*~~KRS 186.412~~ and administrative regulations promulgated pursuant to KRS Chapter 13A.
 - (f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.
 - (g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.
 - (i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.
 - (j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
 - (k) That person is a habitual violator of KRS 304.39-080. For purposes of this section, a "habitual violator" shall mean any person who has operated a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter three (3) or more times within a five (5) year period, in violation of KRS 304.99-060(2).
- (2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Health and Family Services that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after six (6) months of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the

Cabinet for Health and Family Services shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Health and Family Services and the Transportation Cabinet.

- (3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state:
 - (a) Where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment; or
 - (b) Upon receiving written notification from the Finance and Administration Cabinet, Department of Revenue, that the person is a delinquent taxpayer as provided in KRS 131.1817. The denial or suspension shall continue until a written tax clearance has been received by the cabinet from the Finance and Administration Cabinet, Department of Revenue. Notwithstanding the provisions of subsection (4) of this section, a person whose license is denied or suspended under this paragraph shall have thirty (30) days from the date the cabinet mails the notice to request a hearing.
- (4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (5)
 - (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:
 1. The conviction causing the suspension or revocation is more than five (5) years old;
 2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
 3. The license holder complies with the provisions of KRS 186.442.
 - (b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.
 - (c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.
 - (d) This subsection shall not apply to a commercial driver's license.
- (6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a person who holds or is required to hold a commercial driver's license.
- (7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and ~~destroyed~~~~retained~~ by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license **holder** may **reapply under Section 2 or 3 of this Act, after**~~be returned to~~ the licensee~~after he~~ has complied with all requirements for the issuance or reinstatement of his **or her** driving privilege.
- (8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

➔Section 28. KRS 186.579 is amended to read as follows:

- (1) The **Transportation Cabinet**~~[circuit clerk]~~ shall issue, to an applicant who successfully passes the operator's license examination outlined in KRS 186.578(4), an operator's license with the following restrictions:
 - (a) Required use of a bioptic telescopic device;
 - (b) Restricted to daytime driving upon the recommendation of a vision specialist; and
 - (c) Restricted to vehicles with left and right outside mirrors.
- (2) A restriction to daytime driving in accordance with subsection (1) of this section shall be removed if the licensed driver:
 - (a) Obtains a recommendation from a vision specialist;
 - (b) Successfully completes additional evaluation and training specifically designed for night driving from a certified driver training program; and
 - (c) Passes a comprehensive night driving examination.
- (3) An operator's license issued under KRS 186.578 and 186.579 shall be effective for one (1) year and shall expire on the last day of the birth month of the license holder. The license holder shall undergo a comprehensive visual examination by a vision specialist before a license can be renewed. If the vision specialist certifies that the conditions causing the visual impairment are stable, then the circuit clerk shall issue a renewal license. If the conditions causing the visual impairment are unstable or deteriorating, the license holder may be required to undergo additional testing as required by the department before a renewal license may be issued.

➔Section 29. KRS 186.6401 is repealed, reenacted as a new section of KRS Chapter 186 to be numbered as KRS 186.635, and amended to read as follows:

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

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

➔Section 30. KRS 189.011 is amended to read as follows:

- (1) As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:
 - (a) "Authorized emergency vehicle" shall mean any vehicle designated as such by KRS 189.910.
 - (b) "Wrecker" shall mean a motor vehicle on which a wrecking crane and other equipment suitable for motor vehicle wrecker service has been permanently mounted.
- (2) Provided, however, that the regulations in reference to lights shall not apply to common carrier motor vehicles whose equipment is regulated by the rules of the Interstate Commerce Commission.
- (3) As used in this chapter, a driver's license shall mean an operator's license issued pursuant to **Sections 2, 3, and 6 of this Act**~~[KRS 186.412]~~ and a commercial driver's license means a license issued pursuant to KRS Chapter 281A.

➔Section 31. KRS 281A.140 is amended to read as follows:

- (1) The application for a commercial driver's license or commercial driver's instruction permit shall include the following information:
 - (a) The full legal name, including nicknames, and present Kentucky resident address of the applicant. If the applicant's mailing address is different from the resident address, the mailing address shall also be included. If the applicant is not a resident, the application shall include the person's resident address in the person's state of domicile and the address of the Kentucky driver training school where the applicant is currently enrolled;
 - (b) A physical description of the applicant including sex, height, weight, eye color, and race;

- (c) The applicant's date of birth;
 - (d) The applicant's Social Security number;
 - (e) The applicant's signature;
 - (f) Certifications including those required by Title 49, Code of Federal Regulations, secs. 383.71, 383.73, and 384.206, as adopted by the cabinet;
 - (g) A consent to release driving record information;
 - (h) A valid Class D operator's license issued pursuant to *Sections 2 and 6 of this Act* ~~[KRS 186.412]~~;
 - (i) A birth certificate if the applicant does not hold a valid operator's license at the time of application;
 - (j) The name of every jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the ten (10) year period immediately preceding the date of the application; and
 - (k) Any other information required by the cabinet.
- (2) The cabinet or state police may require any other information needed in order to process the application.
 - (3) When the holder of a commercial driver's license changes his or her name or residence, the information shall be reported to the cabinet within ten (10) days. The holder of a Class A, B, or C license shall make an application for a duplicate license within thirty (30) days of changing his name or address.
 - (4) Any person whose commercial driver's license has been legitimately lost or destroyed shall make an application for a duplicate:
 - (a) A person applying for the first duplicate within the time period for which the original license was issued, shall apply in the office of the circuit clerk in the county where the person resides. The person shall provide the clerk with proof of the person's identity and a notarized affidavit with a raised seal explaining in detail the loss or destruction of the original license.
 - (b) A person applying for a second or subsequent duplicate within the time period for which the original license was issued, shall apply to the Transportation Cabinet in Frankfort or a Transportation Cabinet field office. The person shall provide the cabinet with proof of the person's identity and a notarized affidavit ~~[with a raised seal]~~ explaining in detail the loss or destruction of the previous duplicate issued. The Transportation Cabinet shall, within thirty (30) days of receipt of the application, review the person's proof of identity and affidavit and determine if the person will be issued a duplicate.
 - (5) A person who is a resident of this state shall not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
 - (6) Any person who knowingly falsifies information or certifications required to obtain a commercial driver's license, a commercial driver's license permit, or a duplicate commercial driver's license subsequent to an administrative hearing conducted in accordance with KRS 186.570, shall be subject to suspension, revocation, or cancellation of his commercial driver's license for a period of at least sixty (60) consecutive days.

➔Section 32. KRS 281A.170 is amended to read as follows:

- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
 - (a) The name and present resident address of the licensee;
 - (b) The licensee's color photograph;
 - (c) A physical description of the licensee including sex, height, weight, and eye color;
 - (d) The licensee's date of birth;
 - (e) The licensee's signature;
 - (f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - (g) The name of this state;
 - (h) The dates between which the license is valid; and
 - (i) Any other information required by the cabinet, except for a person's Social Security number.

- (2) *A commercial driver's license issued under this chapter shall contain a denotation that either:*
- (a) *The commercial driver's license is a voluntary travel ID identity document that complies with the security standards set forth by Pub. L. No. 109-13, Title II, and may be used for identification for federal purposes; or*
 - (b) *The commercial driver's license shall not be used for federal identification purposes.*
- (3) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
- (a) Classifications:
 1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
 - a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
 4. Class D - All other vehicles not listed in any other class.
 5. Class E - Moped only.
 6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
 - (b) Endorsements:
 1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 3. "P" - Authorizes operation of vehicles carrying passengers.
 4. "N" - Authorizes operation of tank vehicles.
 5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
 7. "S" - Authorizes operation of school buses.
 - (c) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to outline restrictions on the operation of commercial vehicles and the associated codes to identify such restrictions, which shall appear on the face of the commercial driver's license.
- ~~(4)~~(3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
- ~~(5)~~(4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in *eight (8)*~~four (4)~~ years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.

~~(6)(5)~~ A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.

~~(7)(6)~~ The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of *Sections 2 and 6 of this Act* ~~[KRS 186.412]~~.

➔Section 33. KRS 281A.120 is amended to read as follows:

- (1) A commercial driver's instruction permit may be issued to an individual twenty-one (21) years and older who:
 - (a) Has complied with the criminal history background check required by KRS 281A.300;
 - (b) Holds a valid *Kentucky Class D operator's* ~~automobile driver's~~ license; ~~and~~
 - (c) *Is a citizen or permanent resident of the United States; and*
 - (d) Has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven. Instruction permits shall be class specific.
- (2) A commercial driver's instruction permit may be issued to a resident eighteen (18) years of age who:
 - (a) Has complied with the criminal history background check required by KRS 281A.300;
 - (b) Holds a valid *Kentucky* ~~automobile~~ Class D *operator's* ~~driver's~~ license; ~~and~~
 - (c) *Is a citizen or permanent resident of the United States; and*
 - (d) Has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven.

A commercial driver's license instruction permit issued under this subsection shall be valid ~~if the individual only for the operation of~~ ~~drives~~ a commercial motor vehicle in intrastate commerce *that is* ~~and does~~ not ~~drive~~ a school bus or a vehicle hauling hazardous material. The instruction permit shall be class specific and shall contain an "I" restriction noting that the commercial driver is limited to Kentucky intrastate commerce.

- (3) A commercial driver's instruction permit shall not be issued to a resident for a period to exceed *one hundred eighty (180) days* ~~six (6) months~~. Only one (1) renewal or reissuance may be granted within a two (2) year period for the same class of vehicle. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle on the highways of Kentucky only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven and who occupies a seat beside the permit holder for the purpose of giving instruction in driving the commercial motor vehicle.
- (4) A person who is not a resident who is enrolled in a program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A may be issued a provisional Class D license that allows an applicant to include a commercial driver's instruction permit into a single license that shall be valid for ninety (90) days. The fee for a provisional Class D license shall be the same as for a regular Class D license. A provisional Class D license may be renewed for one (1) ninety (90) day period. A person issued a provisional Class D license under this subsection shall be required to convert the license to a regular Kentucky CDL or return to the person's state of domicile and transfer the Kentucky provisional Class D license to his or her state of domicile. A provisional Class D license issued under this subsection shall not be converted to a regular Class D license unless the applicant satisfies all Kentucky residency requirements. A commercial driver's instruction permit shall contain, in addition to other information required by the cabinet, those requirements set forth in KRS 281A.170. The commercial driver's instruction permit shall not contain the permit holder's Social Security number but shall include a color photo of the permit holder.

➔Section 34. KRS 281A.150 is amended to read as follows:

- (1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides or in the county where the person is enrolled in a driver training school if the applicant is not a resident. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Except as provided in KRS 281A.160(6), each time a

person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his or her commercial driver's license, the person shall be required to:

- (a) Update the application; and
 - (b) Submit the appropriate fee to the circuit clerk.
- (2) ***In addition to the fees for an operator's license under Section 21 of this Act***, the cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following applications that shall not exceed:
- (a) ~~{Except as provided in paragraph (g) of this subsection, }~~Forty dollars (\$40) for each application for a commercial driver's license. The fee shall be based on the class, type of license, endorsement, restriction, or tests to be taken;
 - (b) Thirty-five dollars (\$35) for each application for a commercial driver's instruction permit;
 - (c) Fifteen dollars (\$15) for each application for a change or addition in class or type of license, endorsement, or restriction; ***and***
 - (d) Forty dollars (\$40) for each application for a duplicate if it is the first duplicate applied for within the time period for which the original license was issued. Sixty dollars (\$60) for a second or subsequent duplicate applied for within the time period for which the original license was issued. The fees required for a duplicate shall be in addition to fees charged under subsection (2)(c) of this section.~~{ }~~
- (3) ***In addition to the fees for an operator's license under Section 21 of this Act, the cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following commercial driver's licenses that shall not exceed:***
- (a) ***Forty-five dollars (\$45)***~~{(e) — Thirty five dollars (\$35)}~~ for each ***initial or***~~{application for}~~ renewal of a commercial driver's license;
 - (b)~~{(f)}~~ Sixty dollars (\$60) for each~~{application for a}~~ transfer of a commercial driver's license; and
 - (c) ***Thirty dollars (\$30)***~~{(g) — Twenty dollars (\$20)}~~ for each~~{application for an}~~ initial ***or***~~{and}~~ renewal ***of a*** commercial driver's license with an "S" endorsement.
- ~~(4){(3)}~~ All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.
- ~~(5){(4)}~~ All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection ~~(6){(5)}~~ of this section. The accounts shall not lapse but shall be continuing from year to year.
- ~~(6){(5)}~~ All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of Kentucky State Police, except a fifty cent (\$0.50) issuance fee shall be allocated~~{ during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated }~~ to the general fund from issuance of a commercial driver's license permit. A three dollar (\$3) issuance fee shall be allocated~~{ during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated }~~ to the general fund from issuance of a commercial driver's license.
- ~~(7){(6)}~~ Any applicant who seeks reinstatement of his or her commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars (\$50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his or her commercial driving privilege was withdrawn only as a result of the withdrawal of his or her privilege to drive a noncommercial motor vehicle.

➔Section 35. KRS 186.010 is amended to read as follows:

As used in this chapter, unless otherwise indicated:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.

- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but shall include low-speed vehicles as defined in this section.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7)
 - (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
 - (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
 - (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8)
 - (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
 - (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.

- (13) "Special status individual" means:
- (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. "Motorcycle" shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry; and
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.
- (19) ***"Identity document" means an instruction permit, operator's license, or personal identification card issued under Sections 2, 3, 4, 5, and 6 of this Act or a commercial driver's license issued under KRS Chapter 281A.***
- (20) ***"Travel ID," as it refers to an identity document, means a document that complies with Pub. L. No. 109-13 Title II.***

➔Section 36. KRS 15A.358 is amended to read as follows:

- (1) The motorcycle safety education program fund is established as a restricted fund in the State Treasury. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15A.350 to 15A.366. Moneys in the fund shall be utilized to provide motorcycle training courses as established in KRS 15A.352 and for implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses. The Justice and Public Safety Cabinet shall not deduct administrative costs from the motorcycle safety education program fund.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education program fund.

- (3) The following revenue shall be credited to the fund:
- (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;
 - (c) ~~Ten [Four]~~ dollars ~~(\$10) [(\$4)]~~ of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; and
 - (d) Any federal or state motorcycle safety funds granted to the program.

➔Section 37. KRS 186.480 is amended to read as follows:

- (1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in **Section 29 of this Act**~~[KRS 186.6401]~~, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
- (a) The applicant is granted written permission by the circuit clerk of the county in which he or she resides to take the examination in another county, and the Department of Kentucky State Police agree to arrange for the examination in the other county; or
 - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:
- (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or
 - (b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.
- (3) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

➔Section 38. KRS 281A.160 is amended to read as follows:

- (1) (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
- (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.
- (2) (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
- 1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 - 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars (\$150).
- (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The

State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.

- (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.
 - (d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current U.S. Department of Transportation physical card. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to an individual applying for a CDL with an "S" endorsement as defined in KRS 281A.170.
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
- (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.
- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6)
- (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
 - (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
 - (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars (\$50) before retaking a portion of this skills test again.
 - (d) Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.
 - (e) The provisions of KRS 281A.150 notwithstanding, an application fee shall not be charged for each test that is retaken as a result of a failing score.
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150~~(7)(6)~~ and shall receive his or her commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8)
- (a) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.

- (b) Within ninety (90) days of April 22, 2006, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

➔Section 39. The following KRS sections are repealed:

186.495 Alphabetical index of operators' licenses.

186.5315 Posting of notice about 1994 increases in fees of circuit clerks.

➔Section 40. Sections 1 to 9 and 11 to 39 of this Act take effect January 1, 2019.

Signed by Governor March 21, 2017.

CHAPTER 101

(SB 107)

AN ACT relating to gubernatorial appointments and declaring an emergency.

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

➔Section 1. KRS 63.080 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.
- (2)
 - (a) ***Except as provided in subsections (3) and (4) of this section***, members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, Murray State University, and the Kentucky Community and Technical College System~~}, and members of the Kentucky Board of Education and the Council on Postsecondary Education~~ shall not be removed except for cause.
 - (b) ***Members of the Kentucky Board of Education and the Council on Postsecondary Education shall not be removed except for cause.***
 - (c) ***A member of a board of trustees or board of regents specified in paragraph (a) of this subsection may be removed for cause as follows:***
 1. ***The Governor or the board of trustees or board of regents, as applicable, shall notify, in writing, the member and the Council on Postsecondary Education that the member should be removed for cause and shall specify the conduct warranting removal;***
 2. ***The member shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the member's conduct does not warrant removal;***
 3. ***Within thirty (30) days after receipt of notice from the Governor or the board, the Council on Postsecondary Education shall review the written notice, investigate the member and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the member should be removed, a copy of which shall also be provided to the Legislative Research Commission;***
 4. ***The Governor shall then make a determination, in writing, whether the member should be removed and shall notify the member, the applicable board, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and***
 5. ***If the Governor's determination is to remove the member, the Governor shall remove the member by executive order, and shall replace the member with a new appointment according to the applicable statutes for the board of trustees or board of regents.***

- (d) *For the purposes of this subsection, a member may be removed for cause for conduct including but not limited to malfeasance, misfeasance, incompetence, or gross neglect of duty.*
- (3) *For a board specified in subsection (2)(a) of this section that is required by law to have proportional representation in its membership based on residence, political affiliation, gender, minority racial composition, or professional qualifications, the Governor or other appointing authority may remove any member of the board and replace him or her with another individual in order to bring the membership into compliance with the statutory proportional representation requirement for the board, provided that the Governor or other appointing authority shall:*
- (a) *Only exercise the removal authority granted in this subsection if appointment at the end of the next expiring term of a member, or at the end of the next expiring term of members if two (2) or more members' terms expire at the same time, cannot cure the deficiency in the proportional representation requirement;*
 - (b) *Remove the fewest number of members necessary to bring the membership into compliance with the proportional representation requirement for the board;*
 - (c) *Identify the order in which the members were appointed to their current terms on the board and, beginning with the most recently appointed member who may be removed and replaced to bring the membership into compliance with the proportional representation requirement, remove the member or members according to the length of their tenure on the board, without taking into account any prior term of service on the board by the member;*
 - (d) *Provide any member proposed to be removed with the following:*
 - 1. *Written notice, at least seven (7) days prior to the member's removal from the board, stating the statutory proportional representation requirement that the member does not satisfy; and*
 - 2. *An opportunity during the seven (7) day notice period for the member to voluntarily resign or to provide evidence to the Governor or other appointing authority that the member does satisfy the proportional representation requirement or that another member on the board who also does not satisfy the requirement has a shorter tenure than the member proposed to be removed;*
 - (e) *Replace any removed member with only those individuals who will bring the board into compliance with the proportional representation requirement; and*
 - (f) *Appoint any new member in the same manner as provided by law for the member being removed and to fill the remainder of the removed member's unexpired term.*
- (4) *For a board of trustees or board of regents specified in subsection (2)(a) of this section, the Governor may remove for cause all appointed members of the board and replace the entire appointed membership as follows:*
- (a) *The Governor shall notify, in writing, the board and the Council on Postsecondary Education that the entire appointed membership of the board should be removed for cause and shall specify the conduct warranting removal;*
 - (b) *The board or its members shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the conduct of the board or of individual members does not warrant removal;*
 - (c) *Within thirty (30) days after receipt of notice from the Governor, the Council on Postsecondary Education shall review the written notice, investigate the board and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the appointed board membership should be removed, a copy of which shall also be provided to the Legislative Research Commission;*
 - (d) *The Governor shall then make a determination, in writing, whether the entire appointed board membership should be removed and shall notify the members, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and*
 - (e) *If the Governor's determination is to remove the entire appointed membership of the board, the Governor shall remove the members by executive order, and shall replace the members with new appointments according to the applicable statutes for the board of trustees or board of regents.*

For the purposes of this subsection, the entire appointed membership of a board of trustees or board of regents may be removed for cause if the board is no longer functioning according to its statutory mandate as specified in the enabling statutes applicable to the board, or if the board membership's conduct as a whole constitutes malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the conduct cannot be attributed to any single member or members.

➔Section 2. KRS 164.011 is amended to read as follows:

- (1) There is hereby created and established a Council on Postsecondary Education in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the commissioner of education, a faculty member, a student member, and thirteen (13) citizen members appointed by the Governor. The citizen members shall be confirmed by the Senate under KRS 11.160, and the commissioner of education shall serve as a nonvoting ex officio member. Citizen council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in KRS 164.005. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the Senate at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.
- (2) By no later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in KRS 164.005. On making appointments to the council, the Governor shall assure broad geographical and political representation; assure equal representation of the two (2) sexes, inasmuch as possible; assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment***; and assure that appointments reflect the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number. A particular political affiliation shall not be a prerequisite to appointment to the council generally; however, if any person is appointed to the council that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the council less any members not affiliated with either of the two (2) leading political parties.*** In filling vacancies to the council, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than three (3) voting members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.
- (3) One (1) member shall be a full-time faculty member employed at a state institution of postsecondary education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary education institutions.
- (4) One (1) member shall be enrolled as a full-time student at a state institution of postsecondary education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education, the two (2) student members to the Kentucky Community and Technical College System, and one (1) student body president representing the members of the Association of Independent Kentucky Colleges and Universities shall elect by majority vote three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.
- (5) In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments.
- (6) Each citizen member shall serve a term of six (6) years ***unless removed by the Governor for cause***, except the initial appointments shall be as follows:

- (a) Two (2) appointments shall expire December 31, 1997;
 - (b) Three (3) appointments shall expire December 31, 1998;
 - (c) Two (2) appointments shall expire December 31, 1999;
 - (d) Two (2) appointments shall expire December 31, 2000;
 - (e) Two (2) appointments shall expire December 31, 2001; and
 - (f) Two (2) appointments shall expire December 31, 2002.
- (7) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.
 - (8) The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair.
 - (9) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.
 - (10) A quorum shall be a majority of the appointive membership of the council.
 - (11) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.
 - (12) New appointees to the council shall not serve more than two (2) consecutive terms. ~~[- Appointees after May 30, 1997, who previously served on the Council of Higher Education may serve two (2) additional full consecutive terms.]~~
 - (13) New appointees to the council shall complete an orientation and education program set forth in KRS 164.020(25) to be eligible for appointment to a second term.

➔Section 3. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

- (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
 - (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
 - (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
 - (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
 - (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
 - (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
 - (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
 - (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
 - (25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
 - 1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ~~and~~ ethical considerations arising from board membership, **and the board member removal and replacement provisions of Section 1 of this Act**;
 - 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 - 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 - 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;

- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
 - (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
- (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;

- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(j);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;~~and~~
- (38) ***Pursuant to Section 1 of this Act, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and***
- (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 4. KRS 164.131 is amended to read as follows:

- (1) (a) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
- (b) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
- (c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (d) Board members may be removed by the Governor ***under the following circumstances:***
 - 1. For cause, ***pursuant to subsection (2) of Section 1 of this Act***~~which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council; or~~
 - 2. ***Pursuant to subsections (3) or (4) of Section 1 of this Act.***
- (e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the University of Kentucky nonteaching personnel, and one (1) member of the student body of the University of Kentucky. ***The members appointed by the Governor shall be subject to confirmation by the Senate.*** The voting members of the board shall select a chairperson annually.
- (2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act;*** except the initial appointments shall be as follows:
 - 1. Two (2) members shall serve one (1) year terms;
 - 2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
 - 3. Three (3) members shall serve three (3) year terms;
 - 4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
 - 5. Three (3) members shall serve five (5) year terms; and
 - 6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.
- (b) 1. Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth;
- 2. Three (3) shall be representative of agricultural interests; and

3. Ten (10) shall be other distinguished citizens representative of the learned professions and may include one (1) who resides outside of Kentucky.
- (c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment***, and to reflect no less than proportional representation of the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number. A particular political affiliation shall not be a prerequisite to appointment to the board generally; however, if any person is appointed to the board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties.***
- (d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.
- (3) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.
- (4) The nonteaching personnel member shall be any full-time staff member, excluding the president, vice-presidents, academic deans, and academic department chairpersons. The staff member shall represent all nonteaching university employees including but not limited to building facilities and clerical personnel. The staff member shall be elected by secret ballot by the nonteaching employees. The staff member shall serve a term of three (3) years and until a successor is elected and qualified. The staff member shall be eligible for reelection, but a staff member who ceases being an employee of the university shall not be eligible to continue to serve as a member of the board. Elections to fill vacancies shall be for the unexpired term and shall be held in the same manner as provided for the original election.
- (5) The student member shall ***serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30***~~be the president of the student body of the university during the appropriate academic year and may be an out of state resident if applicable~~. If the student member does not maintain ~~the [his] position of [as] student body president or the [his] status of [as] a full-time student at any time during that academic year, a special election shall be held to select a full-time student member~~. The ***elected*** student member shall serve for ***the remainder of the unexpired term***~~a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year~~.
- (6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).
- (7) Unless specifically approved by the board of trustees under the provisions of KRS 164.367, no member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the two (2) faculty members, and the one (1) nonteaching personnel member.
- (8) New appointees of the board shall not serve more than two (2) consecutive terms.~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~
- (9) ***The inability of the board to hold regular meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university, or to carry out its primary function to periodically evaluate the institution's progress in implementing its mission, goals, and objectives to conform to the strategic agenda shall be cause for the Governor to remove all appointed members of the board and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.***

➔Section 5. KRS 164.180 is amended to read as follows:

- (1) The board of trustees may elect a vice chairman and such other officers as it deems wise, and ~~shall~~~~may~~ ~~adopt~~~~make~~ such bylaws, rules and regulations consistent with this chapter as it deems proper.
- (2) ***The bylaws, rules or regulations adopted by the board pursuant to subsection (1) of this section shall reference the member removal and replacement provisions of Section 1 of this Act.***

➔Section 6. KRS 164.321 is amended to read as follows:

- (1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
- (a) Each board of the comprehensive universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. ***The members appointed by the Governor shall be subject to confirmation by the Senate.*** The members of the board shall select a chairperson annually.
- (b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body. ***The members appointed by the Governor shall be subject to confirmation by the Senate.***
1. No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.
 2. A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve or eligibility for reappointment, except an appointee who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.
 3. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.
- (2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act***, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:
- (a) One (1) member shall serve a one (1) year term;
 - (b) One (1) member shall serve a two (2) year term;
 - (c) Two (2) members shall serve three (3) year terms;
 - (d) One (1) member shall serve a four (4) year term;
 - (e) One (1) member shall serve a five (5) year term; and
 - (f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. ~~[Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.]~~

- (3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment. A particular political affiliation shall not be a prerequisite to appointment to any board generally; however, if any person is appointed to a board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total***

number of members on the board less any members not affiliated with either of the two (2) leading political parties. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number.*** Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment, except a member who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.

- (4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.
- (5) Each member of the board shall serve for the term for which the member is appointed and until a successor is appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act.***
- (6)
 - (a) The faculty member of a comprehensive university shall be a teaching or research member of the faculty of his or her respective university of the rank of assistant professor or above. The faculty member shall be elected by secret ballot by all faculty members of his or her university of the rank of instructor, assistant professor, or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being a member of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
 - (b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representative of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he or she ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (7)
 - (a) The nonteaching personnel member in a comprehensive university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He or she shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. The member shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until a successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
 - (b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

- (8) (a) The student member on a comprehensive university board shall *serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30*~~[be the president of the student body of the university during the appropriate academic year and may be an out of state resident if applicable]~~. If the student member does not maintain *the*~~[his or her]~~ position as student body president or *the* status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The *elected* student member shall serve for *the remainder of the unexpired term*~~[a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year]~~.
- (b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms *beginning on July 1 after being elected and sworn in as a student member of the board and ending on the following June 30*~~[beginning with the first meeting of the fiscal year that contains the academic year]~~. If the student member does not maintain *the*~~[his or her]~~ status as a full-time student, a special election shall be held to fill the vacancy *for the remainder of the unexpired term*. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (9) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
- (10) Board members may be removed by the Governor *under the following circumstances*:
- (a) For cause, *pursuant to subsection (2) of Section 1 of this Act*~~[which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council]; or~~
- (b) *Pursuant to subsections (3) or (4) of Section 1 of this Act.*
- (11) *The inability of the board or boards of the comprehensive universities or Kentucky Community and Technical College System to hold quarterly meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university or system, to carry out its primary function to periodically evaluate the university's or system's progress in implementing its mission, goals, and objectives to conform to the strategic agenda, or to otherwise perform its duties under Section 7 of this Act shall be cause for the Governor to remove all appointed members of the board or boards and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.*

➔Section 7. KRS 164.350 is amended to read as follows:

- (1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:
- (a) Receive grants of money and expend the same for the use and benefit of the university or college;
- (b) ~~{Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;~~
- ~~(c) —~~Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
- ~~(c){(d)}~~ Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
- ~~(d){(e)}~~ Grant diplomas and confer degrees upon the recommendation of the president and faculty.
- (2) *Each board shall adopt bylaws, rules, and regulations for the governance of its members, officers, agents, and employees, which shall reference the member removal and replacement provisions of Section 1 of this Act, and the board shall enforce obedience to such bylaws, rules, and regulations.*

- (3) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (4)(3) In addition to the duties required in subsections (1), ~~and~~ (2), **and (3)** of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:
- (a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the colleges within the system. The guidelines shall define the processes for review and approval by the boards of directors for the colleges;
 - (b) Adopt a biennial budget request for the Kentucky Community and Technical College System upon the recommendation of the president of the system;
 - (c) Adopt an allocation process for distributing funds to the colleges within the system;
 - (d) Consider recommendations from the boards of directors of the colleges to improve the overall budget planning and allocation processes;
 - (e) Designate each college with a name;
 - (f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and
 - (g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

➔Section 8. KRS 164.821 is amended to read as follows:

- (1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of **ten (10)** ~~seventeen (17)~~ members appointed by the Governor, **at least one (1) of whom shall be a graduate of the university**; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; **one (1)** ~~a~~ member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and **one (1)** ~~a~~ student member who shall be the president of the student body during the appropriate academic year. **The members appointed by the Governor shall be subject to confirmation by the Senate.**
- (a) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
 - (b) Board members may be removed by the Governor **under the following circumstances:**
 - 1. For cause, **pursuant to subsection (2) of Section 1 of this Act** ~~which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council~~; **or**
 - 2. **Pursuant to subsections (3) or (4) of Section 1 of this Act.**
 - (c) New appointees to the board shall not serve more than two (2) consecutive terms. ~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~
- (2) **The student member shall serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30.** If the student member does not maintain ~~the~~ **this** position ~~of~~ **as** student body president or ~~the~~ **this** status ~~of~~ **as** a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The **elected** student member shall serve **for the remainder of the unexpired term** ~~a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year~~.
- (3) The faculty member **and** ~~a~~ staff member ~~, and student body member~~ shall **serve one (1) year terms and** cease to be eligible for membership on the board of trustees upon termination of their respective relationships with,

or leadership positions within, the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner.~~[The voting members of the board shall select a chairperson annually.]~~

- (4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, *unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act*, except the initial terms shall be as follows:
 - (a) Two (2) members shall serve one (1) year terms;
 - (b) *Two (2)*~~[Three (3)]~~ members shall serve two (2) year terms;
 - (c) *Two (2)*~~[Three (3)]~~ members shall serve three (3) year terms~~[, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees];~~
 - (d) *Two (2)*~~[Three (3)]~~ members shall serve four (4) year terms;
 - (e) *One (1) member*~~[Three (3) members]~~ shall serve *a* five (5) year *term*~~[terms]~~; and
 - (f) *One (1) member*~~[Three (3) members]~~ shall serve *a* six (6) year *term*~~[terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection]~~.
- (5) The Governor shall make his at-large appointments so as to divide the *appointed*~~[citizen]~~ representation upon the board to reflect:
 - (a) *The* proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration *and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment. A particular political affiliation shall not be a prerequisite to appointment to the board generally; however, if any person is appointed to the board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties;* and
 - (b) ~~[shall reflect.]~~ No less than *the* proportional representation of the minority racial composition of the Commonwealth *based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number.*~~[The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out of state travel.]~~
- (6) Vacancies among the *appointed*~~[citizen]~~ members of the board occurring by death, resignation, or any other cause, *other than expiration of a term*, shall be filled by appointments made by the Governor for the *remainder*~~[expiration]~~ of the *unexpired* term, subject to the qualifications set forth in this section.
- (7) Unless specifically approved by the board of trustees under the provisions of KRS 164.367, no member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff, and student members.
- (8) *The inability of the board to hold regular meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university, to carry out its primary function to periodically evaluate the institution's progress in implementing its mission, goals, and objectives to conform to the strategic agenda, or to otherwise perform its duties under Section 9 of this Act shall be cause for the Governor to remove all appointed members of the board and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.*

➔Section 9. KRS 164.830 is amended to read as follows:

- (1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. *A majority of the voting members of the board shall constitute a quorum for the transaction of business.* Powers of the board shall include the following:

- (a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.
- (b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that the removal shall be made in accordance with procedures established by law for state institutions.
- (c) Election of a ***chairperson, a vice chairperson to act in the absence or temporary disability of the chairperson,*** and any other officers as it deems wise, including the annual election of a six (6) member executive committee which shall have the powers that the board delegates to it and shall operate under the rules the board shall establish under its authority to make bylaws, rules, and regulations consistent with this chapter. The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after ***the effective date of this Act***~~(May 30, 1997)~~, shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.
- (d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.
- (e) Requirement of reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.
- (f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.
- (g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (h) ***The board shall adopt bylaws, rules, and regulations for the governance of its members, officers, agents, and employees, which shall reference the member removal and replacement provisions of Section 1 of this Act, and the board shall enforce obedience to those bylaws, rules, and regulations.***
- (2) ***Board members shall receive no compensation for serving on the board, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with the reimbursement policy for state employees. Board members who reside outside the Commonwealth shall not be reimbursed for out-of-state travel expenses.***
- (3) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

➔Section 10. The General Assembly finds and declares that one or more of the boards specified in Section 1 of this Act has a current membership that is not in compliance with statutory proportional representation requirements, or that one or more of the boards has a history of appointments being made that do not meet those statutory requirements. Additionally, the General Assembly finds and declares that one or more of the boards specified in Section 1 of this Act has a current membership that is no longer functioning according to its statutory mandate, or that one or more of the boards has a history of failing to function according to its statutory mandate. Therefore, the General Assembly further finds and declares that the Governor or other appointing authority shall have the power to remove certain members of a board and replace those members with new appointees, consistent with and as specified in Sections 1 to 9 of this Act.

➔Section 11. Because the membership of certain boards may not currently be in compliance with the proportional representation requirements provided by law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

(HB 520)

AN ACT relating to charter schools.

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

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

As used in Sections 1 to 10 of this Act:

- (1) *"Achievement academy" has the same meaning as "public charter school";*
- (2) *"Achievement gap" means a disparity of outcomes on state standardized examinations and other academic performance measures between subgroups of students, especially groups defined by socioeconomic status, race, and ethnicity;*
- (3) *"Applicant" means an eligible person or persons, organization, or entity that seeks approval from a charter school authorizer to establish a public charter school;*
- (4) *"Charter application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;*
- (5) *"Charter contract" or "contract" means a fixed-term, renewable contract between a charter school and an authorizer that identifies the roles, powers, responsibilities, and performance expectations for each party to the contract pursuant to Section 7 of this Act;*
- (6) *"Charter school board of directors" means the independent board of a public charter school that is party to the charter contract with the authorizer and whose members have been elected or selected pursuant to the school's application;*
- (7) *"Conversion public charter school" means a public charter school that existed as a noncharter public school prior to becoming a public charter school;*
- (8) *"Education service provider" means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;*
- (9) *"Local school board" means a school board exercising management and control of a local school district;*
- (10) *"Local school district" means a county or independent school district as identified in KRS 160.010 and 160.020;*
- (11) *"Parent" means a parent, guardian, or other person or entity having legal custody of a child;*
- (12) *"Public charter school" means a public school that*
 - (a) *Is a public body corporate and politic, exercising public power, including the power in name to contract and be contracted with, sue and be sued, and adopt bylaws not inconsistent with this section;*
 - (b) *Has autonomy over decisions, including but not limited to matters concerning finance, personnel, scheduling, curriculum, and instruction;*
 - (c) *Is governed by an independent board of directors;*
 - (d) *Is established and operating under the terms of a charter contract between the public charter school's board of directors and its authorizer;*
 - (e) *Is a public school to which parents choose to send their children;*
 - (f) *Is a public school that admits students on the basis of a random and open lottery if more students apply for admission than can be accommodated;*
 - (g) *Offers a comprehensive instructional program within a public school district;*
 - (h) *Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and*
 - (i) *Operates under the oversight of its authorizer in accordance with its charter contract;*
- (13) *"Public charter school authorizer" or "authorizer" means an entity or body that reviews, approves, or denies charter applications, enters into charter contracts with applicants, oversees public charter schools, and renews, does not renew, or revokes charter contracts. Authorizers include:*

- (a) *A local school board of a local school district in which a public charter school is located;*
- (b) *A collaborative among local school boards that forms to set up a regional public charter school to be located within the area managed and controlled by those local school boards;*
- (c) *The mayor of a consolidated local government who may only authorize public charter schools to be physically located within the county in which the city is located and who has submitted a written notice to the state board that he or she intends to serve as an authorizer; and*
- (d) *The chief executive officer of an urban-county government who may only authorize public charter schools to be physically located within the county in which the city is located and who has submitted a written notice to the state board that he or she intends to serve as an authorizer;*
- (14) *"Qualified teacher" means a person certified by the Education Professional Standards Board pursuant to KRS 161.028, 161.030, 161.046, or 161.048;*
- (15) *"Regional achievement academy" means a public charter school that has been established to serve students across multiple school districts;*
- (16) *"Regional achievement zone" means one (1) county containing four (4) or more local school districts or two (2) or more contiguous counties, each containing four (4) or more local school districts;*
- (17) *"Start-up public charter school" means a public charter school that did not exist as a noncharter public school prior to becoming a public charter school;*
- (18) *"State board" means the Kentucky Board of Education;*
- (19) *"Student" means any child who is eligible for attendance in a public school in Kentucky; and*
- (20) *"Virtual public charter school" means a public charter school that offers educational services primarily or completely through an online program.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly hereby finds and declares that:*
 - (a) *Reducing achievement gaps in Kentucky is necessary for the state to realize its workforce and economic development potential;*
 - (b) *Past and current measures have been insufficient for making progress toward reducing the state's achievement gaps;*
 - (c) *Additional public school options are necessary to help reduce socioeconomic, racial, and ethnic achievement gaps; and*
 - (d) *The demand exists for high-quality public charter schools in the Commonwealth.*
- (2) *The General Assembly hereby establishes a public charter school project to benefit parents, teachers, and community members by creating new, innovative, and more flexible ways of educating all children within the public school system and by advancing a renewed commitment to the mission, goals, and diversity of public education. The purposes of the public charter school initiative are to:*
 - (a) *Improve student learning outcomes by creating additional high-performing schools with high standards for student performance;*
 - (b) *Encourage the use of different, high-quality models of teaching, governing, scheduling, or other aspects of schooling that meet a variety of student needs;*
 - (c) *Close achievement gaps between high-performing and low-performing groups of public school students;*
 - (d) *Allow schools freedom and flexibility in exchange for exceptional levels of results-driven accountability;*
 - (e) *Increase high-quality educational opportunities within the public education system for all students, especially those at risk of academic failure; and*
 - (f) *Provide students, parents, community members, and local entities with expanded opportunities for involvement in the public education system.*

- (3) *Beginning in academic year 2017-2018, any authorizer may authorize an unlimited number of public charter schools within the boundary of the local school district.*
- (4) *A public charter school shall not be a virtual public charter school.*
- (5) (a) *A public charter school authorized by a local school board or collaborative may enroll students who reside within the boundaries of the district or districts represented by the local school board or collaborative.*
- (b) *Enrollment preference for a conversion public charter school shall be given to students who attended the school the previous school year. If the number of students enrolled does not exceed the capacity of the school, secondary preference shall be given to students who reside within the district boundary in which the public charter school is located.*
- (c) *Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. An enrollment preference for returning students shall exclude those students from entering into a lottery, as identified in paragraph (f) of this subsection.*
- (d) *Enrollment preference may be given to the children of the public charter school's board of directors and full-time employees of the public charter school provided they constitute no more than ten percent (10%) of the total student population.*
- (e) *A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and students who attend persistently low-achieving noncharter public schools.*
- (f) *If capacity is insufficient to enroll all students who wish to attend any specific grade level or program at a public charter school, the school shall select students through a randomized and transparent lottery.*
- (6) (a) *A public charter school established within the boundaries of a regional achievement zone shall be a regional achievement academy.*
- (b) 1. *A regional achievement academy may be authorized by a single local school board within the regional achievement zone or by a collaborative of local school boards within the regional achievement zone.*
2. *A regional achievement academy authorized by a single local school board shall be located within the boundaries of the authorizing local school district.*
3. *A regional achievement academy authorized by a collaborative of local school boards shall be located within the regional achievement zone.*
- (c) *A regional achievement academy may only enroll students who reside within the boundaries of its regional achievement zone.*
- (d) *Enrollment preference in a regional achievement academy may be given to students who reside within the boundaries of the local school district where the regional achievement academy is located.*
- (7) *Consistent with the requirements of Sections 1 to 10 and 11 of this Act, the state board shall promulgate administrative regulations to guide student application, lottery, and enrollment in public charter schools.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A public charter school shall be part of the state's system of public education but shall be exempt from all statutes and administrative regulations applicable to the state board, a local school district, or a school, except the public charter school shall adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools and to all requirements otherwise identified in Sections 1 to 10 and 11 of this Act.*
- (2) *A public charter school may elect to comply with any one (1) or more provisions of any state statute or administrative regulation.*
- (3) *A public charter school shall:*
- (a) *Be governed by a board of directors;*

- (b) *Be established and operate in pursuit of a specific set of educational objectives as defined in the charter contract between the school's board of directors and its authorizer;*
- (c) *Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;*
- (d) *Hire only qualified teachers to provide student instruction;*
- (e) *Ensure high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation;*
- (f) *Design its education programs to meet or exceed the student performance standards adopted by the Kentucky Board of Education;*
- (g) *Ensure students' participation in required state assessment of student performance, as required under KRS 158.6453;*
- (h) *Adhere to all generally accepted accounting principles and adhere to the same financial audits, audit procedures, and audit requirements as are applied to other public schools under KRS 156.265;*
- (i) *Utilize the same system for reporting student information data and financial data as is utilized by other school districts across the state;*
- (j) *Require criminal background checks for staff and volunteers, including members of its governing board, as required of all public school employees and volunteers within the public schools specified in KRS 160.380 and 161.148;*
- (k) *Comply with open records and open meeting requirements under KRS Chapter 61;*
- (l) *Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480, or provide to the public charter school board of directors a detailed monthly report of school purchases over ten thousand dollars (\$10,000), including but not limited to curriculum, furniture, and technology;*
- (m) *Provide instructional time that is at least equivalent to the student instructional year specified in KRS 158.070;*
- (n) *Provide data to the Kentucky Department of Education and the authorizer as required by the Kentucky Department of Education or authorizer to generate a school report card under KRS 158.6453;*
- (o) *Operate under the oversight of its authorizer in accordance with its charter contract and application;*
- (p) *As a public body corporate, have all the powers necessary for carrying out the terms of its charter contract, including the power to:*
 - 1. *Receive and disburse funds for school purposes;*
 - 2. *Secure appropriate insurance and enter into contracts and leases;*
 - 3. *Contract with an education service provider, provided the board of directors of the public charter school retains oversight and authority over the school;*
 - 4. *Incur debt in reasonable anticipation of the receipt of public or private funds;*
 - 5. *Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;*
 - 6. *Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter;*
 - 7. *Acquire real property for use as its facility or facilities, from public or private sources; and*
 - 8. *Employ or contract with other entities for the provision of teaching, professional, and support staff, as needed; and*
- (q) *Conduct an admissions lottery if capacity is insufficient to enroll all students who wish to attend the school and ensure that every student has a fair opportunity to be considered in the lottery and that the lottery is competently conducted, equitable, randomized, transparent, impartial, and in accordance with targeted student population and service community as identified in Section 4(3) of this Act so that students are accepted in a public charter school without regard to ethnicity, national*

origin, religion, sex, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

- (4) *For purposes of this subsection, a member of the board of directors of a public charter school shall be considered a board member under KRS 156.132 and an officer under KRS 61.040 and shall be removed from office under the provisions of those statutes.*
- (5) *A local school district shall provide or publicize to parents and the general public information about public charter school authorized by the local school district as an enrollment option within the district to the same extent and through the same means that the school district provides and publicizes information about noncharter public schools in the district.*
- (6) *A local school district shall not assign or require any student enrolled in the local school district to attend a public charter school.*
- (7)
 - (a) *For purposes of ensuring compliance with this section and the charter under which it operates, a public charter school shall be administered by a public charter school board of directors accountable to the authorizer in a manner agreed to in the charter contract, as negotiated between the public charter school applicant and the authorizer.*
 - (b) *The board of directors of a public charter school shall consist of a minimum of two (2) parents of students attending any public charter school operating under the direction of the board of directors.*
 - (c) *A member of the board of directors of a public charter school shall:*
 1. *Not be an employee of that school or of an education service provider that provides services to the school; and*
 2. *File full disclosure reports and identify any potential conflicts of interest, relationships with management organizations, and relationships with family members who are applying to or are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school and shall make these documents available online through the authorizer.*
- (8) *Collectively, members of the board of directors shall possess expertise in leadership, curriculum and instruction, law, and finance.*
- (9)
 - (a) *A board of directors may hold one (1) or more charter contracts.*
 - (b) *Each public charter school under contract with a board of directors shall be separate and distinct from any other public charter school under contract with the board of directors.*
- (10) *The board of directors shall be responsible for the operation of its public charter school, including but not limited to preparation of a budget, contracting for services, school curriculum, and personnel matters.*
- (11) *The board of directors shall:*
 - (a) *Ensure that all meetings of the board are publicized in advance according to the rules governing the authorizer and are open to the public at times convenient to parents; and*
 - (b) *Require any education service provider contracted with the board to provide a monthly detailed budget to the board.*
- (12)
 - (a) *A public charter school may negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations. The public charter school shall have standing to sue and be sued in its own name for the enforcement of any contract under color of authority granted by Sections 1 to 10 of this Act. A public charter school may own, rent, or lease its space.*
 - (b) *Any entity contracted to provide educational services or goods to a public charter school in an amount exceeding ten thousand dollars (\$10,000) shall be subject to the Open Records Act under KRS Chapter 61 for all records associated with the public charter school contract.*

- (13) *A public charter school shall be exempt from administrative regulations governing public schools for purposes of zoning and local land use regulation. The Finance and Administration Cabinet shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a public charter school and shall provide the list to applicants for public charter schools and to existing public charter schools upon request.*
- (14) *A public charter school shall be nonsectarian in its programs, admissions policies, employment practices, partnerships, and all other operations and shall not have entrance requirements or charge tuition or fees, except that a public charter school may require the payment of fees on the same basis and to the same extent as other public schools.*
- (15) *A public charter school shall not discriminate against any student, employee, or any other person on the basis of ethnicity, religion, national origin, sex, disability, special needs, athletic ability, academic ability, or any other ground that would be unlawful if done by a public school.*
- (16) *A public charter school shall serve one (1) or more of grades kindergarten through twelve (12) and shall limit admission to students within the grade levels served.*
- (17) *A public charter school shall provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services. A public charter school shall establish an admissions and release committee at the school and the committee shall:*
 - (a) *Develop an individualized education program for each student with a disability; or*
 - (b) *Review, revise, or utilize a student's individualized education program completed by the admissions and release committee of the student's former school. If needed, the committee shall work collaboratively with staff from the student's former school to review and revise a student's existing individualized education program.*
- (18)
 - (a) *A public charter school shall be eligible to participate in state-sponsored or district-sponsored interscholastic athletics, academic programs, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools. Participants shall comply with eligibility requirements of students enrolled in noncharter public schools.*
 - (b) *A public charter school has no obligation to provide extracurricular activities or access to facilities for students enrolled in the public charter school.*
 - (c) *If a public charter school sponsors interscholastic athletic activities, students enrolled in the public charter school shall be considered eligible to participate in interscholastic competitions by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, if other eligibility requirements are met. A student enrolled in a public charter school that sponsors an interscholastic athletic activity shall be ineligible to participate in that activity at any other school.*
 - (d) *If a public charter school does not offer any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be eligible to participate at the school the student would attend based on the student's residence.*
 - (e) *If a public charter school offers any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be ineligible to participate in any interscholastic athletic activity at any other school.*
- (19) *Nothing in this section shall be construed to prevent the establishment of a single-sex public charter school consistent with federal regulations or a public charter school designed to provide expanded learning opportunities for students at-risk of academic failure or for students with special needs.*
- (20) *The authorizer of a public charter school shall semiannually consider for approval a public charter school's proposed amendments to a charter contract. The authorizer may consider requests for amendments more frequently upon mutual agreement between the authorizer and the public charter school. The denial of an amendment request is appealable pursuant to Section 6 of this Act.*

- (21) *If a student who was previously enrolled in a public charter school enrolls in another public school located within the state, the new school shall accept any credits earned and grades received by the student in courses or instructional programs while enrolled in the public charter school in a uniform and consistent manner and according to the same criteria that is used to accept credits from other public schools.*
- (22) *A teacher employed by a local board of education under a continuing service contract and offered employment with a public charter school shall be granted a two (2) year leave of absence to teach in a public charter school. The leave of absence shall commence on the first day of service to the public charter school. During the first or second year of the leave of absence, the teacher may notify the local board of education that the teacher intends to return to a teaching position in the local school district. The teacher shall be allowed to return to a teaching position in the local school district at the appropriate salary for the teacher's years of experience and educational level. After two (2) years on leave, the relationship between the teacher and the local board of education shall be determined by the local board and the local board shall notify the teacher of the decision.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *An application to establish a public charter school may be submitted to a public charter school authorizer by teachers, parents, school administrators, community residents, public organizations, nonprofit organizations, or a combination thereof.*
- (2) *An applicant shall submit an application for approval of a public charter school to an authorizer and simultaneously to the state board. Charter authorizers shall accept and document the date and time of receipt of all charter applications.*
- (3) *The information provided in the application shall be consistent with this section and shall include:*
 - (a) *A mission statement and a vision statement for the public charter school, including the targeted student population and the community the school hopes to serve;*
 - (b) *A description of the school's proposed academic program that is aligned with state standards, and that implements one (1) or more of the purposes described in Section 2 of this Act, and the instructional methods that will support the implementation and success of the program;*
 - (c) *1. The student achievement goals for the public charter school's educational program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals; and*
2. An explanation of how the school's proposed educational program is likely to improve the achievement of traditionally underperforming students in the local school district;
 - (d) *The school's plan for using external, internal, and state-required assessments to measure student progress on the performance framework as identified in Section 7 of this Act, and how the school will use data to drive instruction and continued school improvement;*
 - (e) *The proposed governance structure of the school, including a list of members of the initial board of directors, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of directors, and the organizational structure of the school that clearly presents lines of authority and reporting between the board of directors, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;*
 - (f) *1. Plans and timelines for student recruitment and enrollment, including policies and procedures for conducting transparent and random admission lotteries that are open to the public, and that are consistent with Sections 2 and 3 of this Act.*
2. An application shall demonstrate a plan to recruit at least one hundred (100) students, unless the application is focused on serving special needs or at-risk students;
 - (g) *A proposed five (5) year budget, including the start-up year and projections for four (4) additional years with clearly stated assumptions;*
 - (h) *Draft fiscal and internal control policies for the public charter school;*
 - (i) *Requirements and procedures for programmatic audits and assessments at least once annually, with audits and assessments being comparable in scope to those required of noncharter public schools;*

- (j) *A draft handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;*
 - (k) *A draft of the policies and procedures by which students may be disciplined, including students with disabilities, which shall be consistent with the requirements of due process and with state and federal laws and regulations governing the placement of students with disabilities;*
 - (l) *A description of the facilities to be used by the public charter school, including the location of the school, if known, and how the facility supports the implementation of the school's academic program. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the authorizer within ten (10) business days of acquiring facilities for the school. The school shall obtain certification of occupancy for the facilities at least thirty (30) days prior to the first student instructional day;*
 - (m) *The proposed ages and grade levels to be served by the public charter school, including the planned, minimum, and maximum enrollment per grade per year;*
 - (n) *The school calendar and school day schedule, which shall total at least the equivalent to the student instructional year specified in KRS 158.070;*
 - (o) *Types and amounts of insurance coverage to be obtained by the public charter school, which shall include adequate insurance for liability, property loss, and the personal injury of students comparable to other schools within the local school district operated by the local school board;*
 - (p) *A description of the health and food services to be provided to students attending the school;*
 - (q) *Procedures to be followed in the case of the closure or dissolution of the public charter school, including provisions for the transfer of students and student records to the local school district in which the public charter school is located or to another charter school located within the local school district and an assurance and agreement to payment of net assets or equity, after payment of debts as specified in Section 9 of this Act;*
 - (r) *A code of ethics for the school setting forth the standards of conduct expected of its board of directors, officers, and employees;*
 - (s) *Plans for recruiting and developing staff;*
 - (t) *A staffing chart for the school's first year and a staffing chart for the term of the charter;*
 - (u) *A plan for parental and community involvement in the school, including the role of parents in the administration and governance of the school;*
 - (v) *The public charter school's plan for identifying and successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including but not limited to the school's plan for compliance with all applicable federal and state laws and regulations;*
 - (w) *A description of cocurricular and extracurricular programs and how they will be funded and delivered;*
 - (x) *The process by which the school will resolve any disputes with the authorizer; and*
 - (y) *A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan.*
- (4) *If the public charter school applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to:*
- (a) *Provide evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;*
 - (b) *Provide student performance data and financial audit reports for all current and past public charter schools;*

- (c) *Provide documentation of and explanation for any actions taken against any of its public charter schools for academic, financial, or ethical concerns;*
- (d) *Provide evidence of current capacity for growth;*
- (e) *Provide a term sheet setting forth:*
 - 1. *The proposed duration of the service contract;*
 - 2. *The annual proposed fees to be paid to the education service provider;*
 - 3. *The roles and responsibilities of the board of directors, the school staff, and the education service provider;*
 - 4. *The scope of services and resources to be provided by the education service provider;*
 - 5. *Performance evaluation measures and timelines;*
 - 6. *Compensation structure, including clear identification of all fees to be paid to the education service provider;*
 - 7. *Methods of contract oversight and enforcement;*
 - 8. *Investment disclosure; and*
 - 9. *Conditions for renewal and termination of the contract; and*
- (f) *Disclose and explain any existing or potential conflicts of interest between the board of directors and the proposed education service provider or any affiliated business entities.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A public charter school authorizer shall:*
 - (a) *Fulfill the expectations and intent of this section and Sections 1 to 10 and 11 of this Act;*
 - (b) *Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;*
 - (c) *Solicit, invite, and evaluate applications from applicants;*
 - (d) *Approve new and renewal charter applications that meet the requirements of this section and Section 4 of this Act;*
 - (e) *Decline to approve charter applications that:*
 - 1. *Fail to meet the requirements of this section and Section 4 of this Act; or*
 - 2. *Are for a school that would be wholly or partly under the control or direction of any religious denomination;*
 - (f) *Negotiate and execute in good faith a charter contract with each public charter school it authorizes;*
 - (g) *Monitor the performance and compliance of public charter schools according to the terms of the charter contract;*
 - (h) *Determine whether each charter contract it authorizes merits renewal or revocation; and*
 - (i) *Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:*
 - 1. *Organizational capacity and infrastructure;*
 - 2. *Soliciting and evaluating applications;*
 - 3. *Performance contracting;*
 - 4. *Ongoing public charter school oversight and evaluation; and*
 - 5. *Charter approval, renewal, and revocation decision making.*
- (2) *In reviewing applications, the public charter school authorizer is encouraged to give preference to applications that demonstrate the intent, capacity, and capability to provide comprehensive learning experiences to:*

- (a) *Students identified by the applicants as at risk of academic failure; and*
 - (b) *Students with special needs as identified in their individualized education program as defined in KRS 158.281.*
- (3) *After a charter applicant submits a written application to establish a public charter school, the authorizer shall:*
- (a) *Complete a thorough review process;*
 - (b) *Conduct an in-person interview with the applicant group;*
 - (c) *Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;*
 - (d) *Provide a detailed analysis of the application to the applicant or applicants;*
 - (e) *Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and*
 - (f) *Approve or deny a charter application based on established objective criteria or request additional information.*
- (4) *In deciding to approve a charter application, the authorizer shall:*
- (a) *Grant charters only to applicants that possess competence in all elements of the application requirements identified in this section and Section 4 of this Act;*
 - (b) *Base decisions on documented evidence collected through the application review process; and*
 - (c) *Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.*
- (5) *No later than sixty (60) days following the filing of the charter application, the authorizer shall approve or deny the charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's board of directors.*
- (6) *Any failure to act on a charter application shall be deemed a denial by the authorizer.*
- (7) *An application shall be approved if the public charter school authorizer finds that:*
- (a) *The public charter school described in the application meets the requirements established by this section and Sections 1 and 3 of this Act;*
 - (b) *The applicant demonstrates the ability to operate the school in an educationally and fiscally sound manner; and*
 - (c) *Approving the application is likely to improve student learning and achievement and further the purposes established by Section 2 of this Act.*
- (8) *An authorizer shall provide a written explanation within five (5) days, for the public record, stating its reasons for approval or denial of a charter application, including a thorough explanation of how the charter application either meets or fails to meet established objective criteria for making charter application decisions, and the authorizing process by which the authorizer used to review, evaluate, and make its final decision.*
- (9) *An authorizer's charter application approval shall be submitted to the Kentucky Department of Education for final approval by the commissioner of education.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any authorizer concerning the approval or denial of a public charter school application, the nonrenewal or revocation of a public charter school's contract, the denial of a public charter school's request to consider a charter amendment, or the unilateral imposition of conditions, in accordance with the provisions of this section.*
- (2) *A charter applicant or approved public charter school who wishes to appeal a decision of an authorizer concerning a charter application, a charter amendment, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, shall provide the state board and the authorizer with a notice of*

appeal within thirty (30) days after the authorizer's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, whichever is being appealed, specified by the authorizer. The notice shall include a brief statement of the reasons the public charter school applicant or public charter school contends the authorizer's denial of or nonrenewal or revocation of a charter, or imposition of conditions was in error.

- (3) *If the notice of appeal, or the motion to review by the state board, relates to an authorizer's decision to deny, refuse to renew, or revoke a charter or to an authorizer's unilateral imposition of conditions that are unacceptable to the charter applicant or public charter school, the appeal and review process shall be as follows:*
 - (a) *Within forty-five (45) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed public charter school has applied for a charter, shall review the decision of the authorizer and make its findings. If the state board finds that the authorizer's decision was contrary to the best interest of the students or community, the state board shall remand such decision to the authorizer with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration;*
 - (b) *Within thirty (30) days following the remand of a decision to the authorizer and after reasonable public notice, the authorizer, at a public hearing, shall reconsider its decision and make a final decision;*
 - (c) *If the authorizer's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant, a second notice of appeal may be filed with the State Board of Education within thirty (30) days following such final decision;*
 - (d) *Within thirty (30) days following receipt of the second notice of appeal or the making of a motion for a second review by the State Board of Education and after reasonable public notice, the state board, at a public hearing shall determine if the final decision of the authorizer was contrary to the best interest of the students or community. If such a finding is made, the state board shall remand such final decision to the authorizer with instructions to approve the charter application or amendment, or to renew or reinstate the charter, or to approve or disapprove conditions imposed. The decision of the state board shall be a final action subject to judicial review in the Circuit Court encompassing the school district in which the public charter school is located; and*
 - (e) *Charters granted to applicants by authorizers after a successful appeal to the state board, as outlined in paragraph (d) of this subsection, shall be provided joint oversight by the authorizer and the state board for, at a minimum, the first five (5) years of the school's operation, and until the authorizer, state board, and public charter school agree that charter oversight may be provided solely by the authorizer. The state board shall be a formal participant in all authorizing decision making concerning the public charter school during that period, and shall be included in all communication between the public charter school and the authorizer.*
- (4)
 - (a) *Within ten (10) days of taking action to approve or deny a charter application that has been remanded back to the authorizer for reconsideration, the authorizer shall notify the state board of the action taken.*
 - (b) *The authorizer shall provide a report to the charter applicant, the state board, and the Education and Workforce Development Cabinet simultaneously and shall include a copy of the resolution adopted by the authorizer's board of directors identifying any action taken, the reason for the decision, and an assurance as to compliance with all of the procedural requirements and application elements found in this section and Sections 2 and 4 of this Act.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1)
 - (a) *For purposes of this section, a member of the board of directors of a public charter school shall be considered an officer under KRS 61.040 and shall, within sixty (60) days of final approval of an application, take an oath of office as required under KRS 62.010.*

- (b) *Within seventy-five (75) days of the final approval of an application, the board of directors and the authorizer shall enter into a binding charter contract that establishes the academic and operational performance expectations and measures by which the public charter school will be evaluated.*
- (c) *The executed charter contract shall become the final authorization for the public charter school. The charter contract shall include:*
 - 1. *The term of the contract;*
 - 2. *The agreements relating to each item required under subsection (3) of Section 3 and subsection (3) of Section 4 of this Act, as modified or supplemented during the approval process;*
 - 3. *The rights and duties of each party;*
 - 4. *The administrative relationship between the authorizer and the public charter school;*
 - 5. *The allocation of state, local, and federal funds, and the schedule to disburse funds to the public charter school by the authorizer;*
 - 6. *The process the authorizer will use to provide ongoing oversight, including a process to conduct annual site visits;*
 - 7. *The specific commitments of the public charter school authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;*
 - 8. *The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found in the annual review;*
 - 9. *The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the board of directors of the public charter school;*
 - 10. *The process agreed to by the authorizer and the board of directors of the public charter school that identifies how disputes between the authorizer and the board will be handled; and*
 - 11. *Any other terms and conditions agreed to by the authorizer and the board of directors, including pre-opening conditions. Reasonable conditions shall not include enrollment caps or operational requirements that place undue constraints on a public charter school or are contradictory to the provisions of Sections 1 to 10 and 11 of this Act. Such conditions, even when incorporated in a charter contract, shall be considered unilaterally imposed conditions.*
- (d) 1. *The performance provisions within a charter contract shall be based on a performance framework that sets forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate each public charter school. The performance framework shall include at a minimum indicators, measures, and metrics for:*
 - a. *Student academic proficiency;*
 - b. *Student academic growth;*
 - c. *Achievement gaps in both student proficiency and student growth between student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;*
 - d. *Student attendance;*
 - e. *Student suspensions;*
 - f. *Student withdrawals;*
 - g. *Student exits;*
 - h. *Recurrent enrollment from year to year;*
 - i. *College or career readiness at the end of grade twelve (12);*
 - j. *Financial performance and sustainability; and*
 - k. *Board of directors' performance and stewardship, including compliance with all applicable statutes, administrative regulations, and terms of the charter contract.*

2. *The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance. The proposed indicators shall be consistent with the purposes of Sections 1 to 10 and 11 of this Act and shall be negotiated with the authorizer.*
3. *The performance framework shall require the disaggregation of student performance data by subgroups, including race, sex, socioeconomic status, and areas of exceptionality.*
4. *The authorizer shall be responsible for collecting, analyzing, and reporting to the state board all state-required assessment and achievement data for each public charter school it oversees.*
- (e) *Annual student achievement performance targets shall be set, in accordance with the state accountability system, by each public charter school in conjunction with its authorizer, and those measures shall be designed to help each school meet applicable federal, state, and authorizer goals.*
- (f) *The charter contract shall be signed by the chair of the governing board of the authorizer and the chair of the board of directors of the public charter school. An approved charter application shall not serve as a charter contract for the public charter school.*
- (g) *No public charter school may commence operations without a charter contract executed according to this section and approved in an open meeting of the governing board of the authorizer.*
- (2) *Within five (5) days after entering into a charter contract, a copy of the executed contract shall be submitted by the authorizer to the commissioner of education.*
- (3) *The state board shall promulgate administrative regulations to establish the process to be used to evaluate the performance of a charter school authorizer, based upon the requirements of Sections 1 to 10 and 11 of this Act, and the actions to be taken in response to failures in performance.*
- (4) *The commissioner of education shall apply for financial assistance through the federal government for the planning, program design, and initial implementation of public charter schools in the state within sixty (60) days after the effective date of this Act or at the first available grant application period. Federal grants include but are not limited to the Charter Schools Program administered by the United States Department of Education.*
- (5) *By August 31, 2019, and annually thereafter, each public charter school authorizer shall submit to the commissioner of education, the secretary of the Education and Workforce Development Cabinet, and the Interim Joint Committee on Education a report to include:*
 - (a) *The names of each public charter school operating under contract with the authorizer during the previous academic year that:*
 1. *Closed during or after the academic year; or*
 2. *Had the contract nonrenewed or revoked;*
 - (b) *The names of each public charter school operating under contract with the authorizer during the previous academic year that have not yet begun to operate;*
 - (c) *The number of applications received, the number reviewed, and the number approved;*
 - (d) *A summary of the academic and financial performance of each public charter school operated under contract with the authorizer during the previous academic year; and*
 - (e) *The authorizing duties and functions performed by the authorizer during the previous academic year.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the approval of a charter contract by a public charter school authorizer, the applicant shall be permitted to operate a public charter school for a term of five (5) years.*
- (2) *The board of directors of the public charter school shall negotiate and execute a charter contract with the governing body of the authorizer.*
- (3) *A public charter school shall have all corporate powers necessary and desirable for carrying out a public charter school program in accordance with this section and the terms of the charter contract, including all of the powers of a local board of education and of a local school district, except as otherwise provided in Sections 1 to 10 of this Act.*

- (4) *The powers granted to a public charter school under this section constitute the performance of essential public purposes and governmental purposes of this state. A public charter school shall be exempt to the same extent as other public schools from all taxation, fees, assessments, or special ad valorem levies on its earnings and its property. Instruments of conveyance to or from a public charter school and any bonds or notes issued by a public charter school, together with the income received, shall at all times be exempt from taxation.*
- (5) *A public charter school shall not have the power to levy taxes or to acquire property by eminent domain, but shall have police powers to the same extent and under the same requirements as a local school district.*
- (6) *The board of directors of the public charter school shall have final authority over policy and operational decisions of the public charter school, although the decision-making authority may be delegated to the administrators and staff of the school in accordance with the provisions of the charter contract.*
- (7) *Notwithstanding any other statute to the contrary, no civil liability shall attach to any public charter school authorizer or to any of its members or employees, individually or collectively, for any acts or omissions of the public charter school. Neither the local school district nor the Commonwealth shall be liable for the debts or financial obligations of a public charter school or any person or corporate entity who operates a public charter school.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A charter contract may be renewed by the authorizer for a term of duration of five (5) years, although the authorizer may vary the term to as few as three (3) years. Any variation in the public charter school's term must be solely based on the performance, demonstrated capacities, and particular circumstances of a public charter school. Authorizers may grant renewal with specific conditions for necessary improvements to a public charter school, but may not impose conditions inconsistent with Sections 1 to 10 of this Act.*
- (2)
 - (a) *No later than one (1) calendar year prior to the expiration date of a charter contract, an authorizer shall issue a public charter school performance report and charter renewal application guidance to the public charter school it authorized. The performance report shall summarize the school's performance record to date, based on the performance framework required under Section 7 of this Act and the charter contract, and shall provide notice of any weaknesses or concerns related to the school that may jeopardize its position in seeking renewal if not timely rectified and of any strengths or achievements that support its position in seeking renewal.*
 - (b) *The school shall have twenty (20) days to respond to the performance report and submit any corrections or clarification for the report to the authorizer.*
 - (c) *Within ten (10) days of receiving a school's response, the authorizer shall review the response and issue a final performance report to the school.*
- (3)
 - (a) *The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:*
 - 1. *Present additional evidence beyond the data contained in the performance report supporting its case for charter renewal;*
 - 2. *Describe improvements undertaken or planned for the school; and*
 - 3. *Detail the school's plan for the next charter term.*
 - (b) *The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework as identified in the charter contract.*
- (4)
 - (a) *No later than six (6) months prior to the expiration date of a charter contract, the board of directors of a public charter school seeking charter contract renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance issued by the authorizer.*
 - (b) *The authorizer shall rule by resolution on the renewal application no later than thirty (30) days after receipt of the application.*
- (5) *In making charter application, renewal, or other appealable decisions, an authorizer shall:*

- (a) *Make its decision within established timeframes. Any failure of the authorizer to act on a charter application, renewal, or other appealable decision shall be deemed a denial of the requested action and thereafter be subject to appeal;*
 - (b) *Base its decision on evidence of the public charter school's performance over the term of the charter contract in accordance with the performance framework required in the charter contract;*
 - (c) *Ensure that data used in making renewal decisions is available to the public charter school and the public; and*
 - (d) *Provide a public report summarizing the evidence basis for each decision.*
- (6) *A charter contract may not be renewed if the authorizer determines that the public charter school has:*
 - (a) *Committed a material violation of any of the terms, conditions, standards, or procedures required under Sections 1 to 10 and 11 of this Act or the charter contract, and has persistently failed to correct the violation after fair and specific notice from the authorizer;*
 - (b) *Failed to meet or make significant progress toward the performance expectations identified in the charter contract;*
 - (c) *Failed to meet generally accepted standards of fiscal management, and has failed to correct the violation after fair and specific notice from the authorizer; or*
 - (d) *Substantially violated any material provision of law from which the public charter school was not exempted and has failed to correct the violation after fair and specific notice from the authorizer.*
- (7) *An authorizer may take immediate action to revoke a charter contract if a violation threatens the health and safety of the students of the public charter school.*
- (8) *The State Board of Education shall promulgate administrative regulations establishing a revocation and nonrenewal process for charter authorizers that:*
 - (a) *Provides the charter holder with a timely notification of the prospect of revocation or nonrenewal and of the reasons for such possible closure;*
 - (b) *Allows a charter holder a reasonable time in which to prepare a response;*
 - (c) *Provides the charter holder with an opportunity to submit documentation and provide testimony challenging the rationale behind the closure and in support of the continuation of the school at an orderly proceeding held for that purpose;*
 - (d) *Allows the charter holder the right to representation by counsel and to call witnesses on behalf of the charter holder;*
 - (e) *Permits the recording of such proceedings; and*
 - (f) *After a reasonable period of deliberation, requires a final determination be made and conveyed in writing to the charter holder.*
- (9) *If an authorizer revokes or does not renew a contract, the authorizer shall clearly state, in a resolution of its governing board the reason for the revocation or nonrenewal.*
- (10) *Within ten (10) days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the state board the action taken, and shall provide a report to the public charter school at the same time the report is issued to the state board. The report shall include a copy of the resolution adopted by the authorizer's governing board describing the action taken and reasons for the decision and assurance as to compliance with all of the procedural requirements and application elements found in Section 4 of this Act.*
- (11) *An authorizer shall develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. If a public charter school closes for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol. If a public charter school is subject to closure, following exhaustion of any appeal allowed under Section 6 of this Act, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure. If the authorizer removes members of the*

board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure of the public charter school in the name and interest of the public charter school.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *An existing public school not scheduled for closure may be converted into a public charter school and be identified as a conversion public charter school if an applicant indicates to a valid authorizer the intent to convert an existing public school into a conversion public charter school.*
- (2) *A conversion public charter school may only be established if:*
 - (a) *A school has been identified by the Kentucky Department of Education as performing in the lowest five percent (5%) of its level and sixty percent (60%) of the parents or guardians of students who attend the school have signed a petition requesting the conversion, which shall be completed and submitted to a valid authorizer no later than ninety (90) days after the date of the first signature;*
 - (b) *A school has been identified by the Kentucky Department of Education as not performing in the lowest five percent (5%) of its level and sixty percent (60%) of the parents or guardians of students who attend the school have signed a petition requesting the conversion, which is approved by a majority vote of the local school board. If approved the completed petition shall be submitted to a valid authorizer no later than ninety (90) days after the date of the first signature; or*
 - (c) *The local school board votes to convert an existing public school over which it has authority.*
- (3) *For each conversion option identified in subsection (2) of this section, the Kentucky Board of Education shall promulgate administrative regulations to govern the processes and procedures for the petition, the conversion, and the operation of a conversion public charter school.*
- (4) *A conversion public charter school shall be governed by a board of directors constituted and empowered as provided in Section 3 of this Act.*
- (5) *A conversion public charter school shall continue to comply with all federal and state requirements concerning the treatment of children with special needs and accept all students who attended the school prior to its conversion who wish to attend.*
- (6) *A conversion public charter school shall hire its own employees.*
- (7) *An employee who works in a conversion public charter school shall be an employee of the public charter school.*
- (8)
 - (a) *For any collective bargaining agreement entered into on or after the effective date of this Act, a governing board shall not be bound by its collective bargaining agreement for employees of a conversion public charter school.*
 - (b) *Employees of a conversion public charter school may organize and collectively bargain only as a unit separate from other school employees.*
- (9) *A conversion public charter school shall continue to be housed in the same public school facility and shall have the option of using the existing assets of the school.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "public charter school," "local school board," and "local school district" have the same meanings as in Section 1 of this Act.*
- (2)
 - (a) *Public charter school employees shall participate in the Teachers' Retirement System or the County Employees Retirement System, as determined by their eligibility for participation in the appropriate system and provided the public charter school satisfies the criteria set by the Internal Revenue Service to participate in a governmental retirement plan.*
 - (b) *Teachers and other certified personnel shall make any required employee contributions to the Teachers' Retirement System under KRS 161.220 to 161.716.*
 - (c) *Classified employees shall make any required employee contributions to the County Employees Retirement System under KRS 78.510 to 78.852.*
- (3)
 - (a) *A public charter school employee shall not be required to be a member of any collective bargaining agreement.*

- (b) *A public charter school employee who enters into any collective bargaining unit must do so as a separate unit from the local school district.*
- (4) *A local school board shall not require any employee of the local school district to be employed in a public charter school or any student enrolled in the school district to attend a public charter school.*
- (5) *A local school board shall not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any district employee involved directly or indirectly with an application to establish a public charter school.*

➔Section 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor March 21, 2017.

CHAPTER 103

(SB 238)

AN ACT relating to construction and declaring an emergency.

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

➔Section 1. KRS 56.813 is amended to read as follows:

- (1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.
- (2) (a) 1. When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.
- 2. If the improvements cost more than ten thousand dollars (\$10,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.
- 3. a. If the improvements cost ten thousand dollars (\$10,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer than the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.
- b. Any improvements approved under this subparagraph with a cost between one thousand dollars (\$1,000) and ten thousand dollars (\$10,000) shall be reported semiannually by the Finance and Administration Cabinet to the Capital Projects and Bond Oversight Committee established by KRS 45.790. The report shall include, for each project, the agency for which the improvement was made, the cost, a description of the work performed, and the property identification number.
- (b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.
- (c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(d) For any building leased by a state agency that the state will own upon termination of the lease or expiration of the lease term, and for which no modification of the lease may be made to amortize improvements to the property, the cabinet may use funds provided by state agencies to improve, renovate, or refit the building to better satisfy the needs of the agencies occupying the leased property up to six hundred thousand dollars (\$600,000) without additional approval of the General Assembly.

- (3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.
- (4) The Division of Real Properties, within the Department for Facilities and Support Services, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he or she may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

➔Section 2. 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 43.050, 48.111, and 56.800 to 56.823 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 43.050, 48.111, and 56.800 to 56.823. 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.

(12) *Before beginning work on any improvements, renovations, or refitting of a leased building under the provisions of paragraph (d) of subsection (2) of Section 1 of this Act, the cabinet shall report to the Capital Projects and Bond Oversight Committee:*

- (a) *A description of the project;*
- (b) *Identification of the agency or agencies for which the improvements, renovations, or refitting are being performed;*
- (c) *An estimate of the total cost of the project;*
- (d) *The source of funds for the project; and*
- (e) *All the information required by KRS 45.793.*

➔Section 3. The Department for Facilities and Support Services within the Finance and Administration Cabinet is authorized to enter into a public-private partnership, built-to-suit, or lease-purchase for the renewal of the Capital Plaza in downtown Frankfort, Kentucky. This authorization includes the authorization under KRS 45.763.

➔Section 4. Whereas, the Capital Plaza Tower in Frankfort, Kentucky, is unsafe and will cost the Commonwealth up to \$800,000 per year when vacant, and issuing an immediate request for proposal will save money and remove the security and vandalism risks for the state, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 104

(HB 351)

AN ACT relating to Kentucky Retirement Systems agency participation and declaring an emergency.

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

➔Section 1. KRS 61.522 is amended to read as follows:

Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:

- (1) For purposes of this section:
 - (a) "Active member" means a member who is participating in the system;
 - (b) "Employer" means the governing body of a department, as defined by KRS 61.510, or a county as defined by KRS 78.510;
 - (c) "Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems; and
 - (d) "Inactive member" means a member who is not participating with the system;
- (2) Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (6) of this section, may:
 - (a) Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or
 - (b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;
- (3) (a) If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (2)(a) of this section:

1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;
 2. The cessation of participation in the system shall apply to all employees of the employer;
 3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;
 4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan;~~and~~
 5. *If the alternative retirement program established by the employer meets the qualification requirements under 26 U.S.C. sec. 401(a) and is capable of accepting trustee-to-trustee transfers of both pre-tax and post-tax contributions, employees of the employer ceasing participation may seek to transfer his or her account balance to the employer's qualified alternate retirement program within sixty (60) days of the employer's effective cessation date. An employee's election to transfer his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits in the system for the time worked for the employer ceasing participation; and*
 6. The employer shall pay **by lump sum** to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a **transfer**~~refund~~ of his or her account balance within sixty (60) days of the employer's effective cessation date **as provided by subparagraph 5. of this paragraph.** ~~[An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump sum payment or in installment payments to the system.]~~ The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid.~~[or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:~~
 - a. ~~Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;~~
 - b. ~~Be charged interest over the life of the installment period, at the actuarially assumed rate of return; and~~
 - c. ~~Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:~~
 - i. ~~A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;~~
 - ii. ~~Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and~~
 - iii. ~~The perfected security interest shall attach until the amount owed is paid in full.~~~~The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section.]~~
- (b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (2)(b) of this section:
1. The cessation of participation in the system shall apply to all employees of the employer;
 2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for

discontinuing participation in the system as determined by the board and as provided by this section; and

3. The employer shall pay *by lump sum* to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. ~~{The full actuarial cost shall not include any employee who seeks a refund of his or her account balance within sixty (60) days of the employer's effective cessation date. An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump sum payment or in installment payments to the system. }~~The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid~~[or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:~~

- a. ~~Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;~~
- b. ~~Be charged interest over the life of the installment period at the actuarially assumed rate of return; and~~
- c. ~~Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:~~
 - i. ~~A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;~~
 - ii. ~~Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and~~
 - iii. ~~The perfected security interest shall attach until the amount owed is paid in full.~~

~~— The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section};~~

- (4) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the employer that ceased participation for the duration of his or her employment with that employer;
- (5) If an employer has ceased participation in the system as provided by this section:
 - (a) The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and
 - (b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:
 1. Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;
 2. Retain his or her vested rights in accordance with paragraph (a) of this subsection; *and*

3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible~~[-; and~~
 4. ~~Except for federal tax purposes, be treated as if his or her employment terminated as of the employer's effective cessation date, unless otherwise prohibited by applicable federal tax authority];~~
- (6) (a) Kentucky Employees Retirement System employers who are county attorney offices, Commonwealth's attorney offices, local and district health departments governed by KRS Chapter 212, master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, state-supported universities and community colleges, property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a nonstock nonprofit corporation organized under KRS Chapter 273.
- (b) Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System;
- (7) For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions *and methodology* established by the system *specifically for determining the full actuarial cost of ceasing participation* as of the *employer's effective cessation date*. *For purposes of determining the full actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser of the assumed rate of return utilized in the system's most recent actuarial valuation or the yield on a thirty (30) year United States treasury bond as of the employer's effective cessation date, but shall in no case be lower than the assumed rate of return utilized in the system's most recent actuarial valuation minus three and one-half percent (3.5%)*~~[most recently completed actuarial valuation and based upon the following methodology:~~
- (a) ~~For each fund, the systems' consulting actuary shall determine the assets at market value that are held in the Kentucky Employees Retirement System or the County Employees Retirement System, as applicable, to cover employer financed accrued liabilities. The market value of assets of each fund, to the extent sufficient, will be allocated to categories in the following order:~~
 1. ~~Inactive member accumulated account balances;~~
 2. ~~Active member accumulated account balances;~~
 3. ~~Recipient liabilities;~~
 4. ~~Employer financed inactive member liabilities; and~~
 5. ~~Employer financed active member liabilities;~~
 - (b) ~~The systems' consulting actuary shall apportion the market value of assets in each fund for each category listed in paragraph (a) of this subsection to the employer ceasing participation based on the employer's share of each category's liabilities in the fund that are represented by the members and recipients of the employer ceasing participation;~~
 - (c) ~~The systems' consulting actuary shall determine the amount of the employer financed accrued liabilities separately for each fund for all members and recipients of the employer ceasing participation; [and]~~
 - (d) ~~The full actuarial cost for each fund shall be equal to the amount by which paragraph (c) of this subsection exceeds paragraph (b) of this subsection];~~
- (8) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section; and
- (9) Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.

➔Section 2. Notwithstanding the provisions of Section 1 of this Act, any employer who has filed the paperwork to voluntarily cease participation prior to the effective date of this Act shall have their full actuarial cost calculated based upon the assumptions and methodology established by the Kentucky Retirement Systems' board, except that the assumed investment return assumption, which is also the rate used to discount liabilities, shall be four

and five-tenths percent for employers paying by lump-sum and four percent for employers paying by installments, and such employers electing to pay by installments shall be eligible to pay the full actuarial cost in installments over a period of time determined by the board, not to exceed 20 years, with interest at the actuarially assumed rate of return.

➔Section 3. Notwithstanding KRS 61.661, Kentucky Retirement Systems shall provide the employer ceasing participation as provided by Section 2 of this Act, an individual member breakdown of the actuarial cost attributable to each current and former employee of the employer for purposes of allocating the costs among organizational units of the employer.

➔Section 4. Whereas ensuring that employers pay the appropriate actuarial cost for ceasing participation is important to the financial stability of the Kentucky Retirement Systems and to the overall welfare of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 21, 2017.

CHAPTER 105

(HB 246)

AN ACT relating to solid waste management and declaring an emergency.

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

➔Section 1. KRS 109.041 is amended to read as follows:

- (1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may own and hold the permit for, plan, initiate, acquire, construct, and maintain solid waste management facilities, enter into contracts or leases with private parties for the design, construction, or operation of a publicly-owned solid waste management facility, and adopt administrative regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing, and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.
- (2) No solid waste management facility shall be acquired and constructed until the construction thereof has been approved in writing by the cabinet. Planning for a solid waste management facility shall be conducted in accordance with the policy set forth in KRS 109.011(7) and KRS Chapter 224.
- (3) No county or waste management district shall prohibit or otherwise restrict materials recovery by:
 - (a) Any materials recovery operation in existence in the county or district on the effective date of the mandatory program;
 - (b) Any person supplying material to materials recovery operations on the effective date of the mandatory program;
 - (c) Any new materials recovery operation that reclaims the same type of materials as materials recovery operations included in paragraph (a) of this subsection;
 - (d) Any new suppliers to materials recovery operations included in paragraphs (a) and (c) of this subsection;
 - (e) Any materials recovery operation for glass, plastic, or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the materials recovery of glass, plastic, or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such materials recovery facility in the county or district;~~{or}~~

- (f) Any other materials recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility; **or**
 - (g) ***In a county containing a consolidated local government, any municipality located within the geographic area of the county or waste management district created to serve that county.***
- (4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.50-760, other than sludge from water and waste water treatment facilities as it pertains to landfarming, or solid waste from agricultural or mining operations.
 - (5) Any county undertaking the planning, implementation, construction, installation, acquisition, and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility, including the authority to promulgate, enforce, and collect reasonable rates, rentals, and charges for the use of such solid waste management facility.
 - (6) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.
 - (7) Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.
 - (8) Counties are authorized to charge a reasonable fee to transporters for the handling of their waste at a solid waste management facility approved by the cabinet.
 - (9) Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.
 - (10) In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations adopted by the cabinet on waste management pursuant to KRS Chapter 224.
 - (11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.
 - (12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.
 - (13) Notwithstanding any other provision of law, a fiscal court may, by ordinance, create a solid waste district to exercise the powers of the county pursuant to this chapter, except that a district created for this purpose shall not levy or collect ad valorem property taxes.
 - (14) ***If a city within a county containing a consolidated local government is in conformity with the Resource Conservation and Recovery Act of 1976, 42 U.S.C. secs. 6901 et seq., and is in conformity with all state statutes and administrative regulations applicable to the collection, management, and treatment of solid waste and resource recovery therefrom, the consolidated local government or waste management district serving the county containing the consolidated local government shall not, directly or indirectly, hinder, delay, impair, prohibit, or impede any city or its contractors and agents from accessing, utilizing, and otherwise using any solid waste management facility for the disposal of solid waste. The consolidated local government or waste management district shall not charge a city within the county containing the consolidated local government, or the city's contractors and agents, directly or indirectly, any fee that is based, directly or indirectly, on the composition of the solid waste stream of that city if the solid waste stream is in conformity with state and federal law for the use of the solid waste management facility receiving the waste.***

➔Section 2. KRS 109.115 is amended to read as follows:

- (1) A single county, or two (2) or more counties may create a waste management district in accordance with the procedures of KRS 65.182. Waste management districts shall have all powers and authority set forth in KRS 109.041.

- (2) The waste management district shall be controlled and managed by a board of directors.
- (3) The fiscal court ***in a county not containing a consolidated local government*** shall determine the composition of the board of directors in one (1) of the following ways:
 - (a) Appointment of the county judge/executive of every county, or portion of a county, within that district and the mayor of the most populous city in each county. Appointment of a third member from each county in the district so that representation on the board shall be in proportion to the urban-rural population distribution in the county. The county judge/executive and the mayor may delegate a representative to serve in their stead.
 - (b) Appointment of members by the county judge/executive and confirmed by the respective fiscal court. In the case of multicounty districts, membership on the board shall be apportioned among the counties in ratio to their population with each county having at least one (1) member. The mayor of the most populous city in each county that is a participant in the waste management district shall be appointed a member. In no case shall the total membership of the board consist of fewer than three (3) persons. When a county has two (2) or more members on the board, members shall be selected from urban or rural areas in the same proportion as the urban-rural population distribution in the county, except that there shall be at least one (1) member each from a rural and from an urban area.
- (4) ***In a county containing a consolidated local government, the mayor of the consolidated local government, with the approval of the legislative body of the consolidated local government, shall appoint the following seven (7) persons to constitute the board of directors:***
 - (a) ***Three (3) residents, one (1) from each of the three (3) commissioner's districts in the county and no two (2) members shall reside within the same state Senate district;***
 - (b) ***One (1) resident of the county who shall also reside within and represent the urban services district within the consolidated local government;***
 - (c) ***One (1) resident of the county submitted by the organization representing the largest amount of cities within the county which does not have statewide membership;***
 - (d) ***One (1) resident of the county who does not reside within a city or the urban services district in the county; and***
 - (e) ***One (1) resident of the county submitted by the association representing the largest number of waste management entities operating within the county.***
- (5) A member of the board of directors may be removed from office pursuant to KRS 65.007.
- (6) ***Except for the initial board appointed pursuant to this section, each director shall serve a two (2) year term, and shall serve no more than three (3) consecutive terms. The initial board appointed pursuant to this section shall consist of three (3) directors appointed for one (1) year and four (4) directors appointed for two (2) years.***

➔Section 3. KRS 109.120 is amended to read as follows:

- (1) ***In counties not containing a consolidated local government, the board may adopt such rules and regulations as are necessary to carry out the purposes for which the waste management district was created and necessary for the adequate management of solid waste in a manner adequate to protect the public health and consistent with such rules and regulations as may be promulgated by the department.***
- (2) ***In counties containing a consolidated local government, all rules and regulations of the solid waste management district enacted from adoption of the most recent solid waste management plan prior to the effective date of this Act shall continue in full force and effect until the later of August 31, 2017, or the date on which a new solid waste management plan is approved by the department.***
- (3) ***In counties containing a consolidated local government, the board may adopt such rules and regulations as are necessary to carry out the purposes for which the waste management district was created and necessary for the adequate management of solid waste in a manner adequate to protect the public health and consistent with such rules and regulations as may be promulgated by the department. These rules and regulations shall not be enforceable within the boundaries of the city until approved by the legislative body of the city or, if outside of an incorporated municipality, the legislative body of the consolidated local government, where the rule or regulation is intended to apply. A city shall approve any rule or regulation if***

rejecting it would cause the city to be in violation of its approved solid waste management plan adopted in accordance with the provisions of KRS 224.43-345 and Section 4 of this Act.

- (4) *In counties containing a consolidated local government, a solid waste district shall be required to electronically make available on a Web site operated by the consolidated local government, all notices, meeting agendas, and meeting minutes.*

➔Section 4. KRS 224.43-340 is amended to read as follows:

- (1) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 224 for the reduction and management of solid waste, consistent with the statewide solid waste reduction and management plan, the goals established by KRS 224.43-010, and the provisions of KRS Chapter 109.
- (2) Waste management districts, counties, or any combination thereof, shall confer and determine which shall submit to the cabinet a solid waste management plan. The plan shall address municipal solid waste management needs for the area. Each county shall be responsible for implementing the plan, except that any city that develops the portion of the area plan applicable to its jurisdiction under KRS 224.43-315 shall be responsible for implementing the portion of the plan prepared by the city. However, if a county participates in a regional solid waste management area, then the governing body of the solid waste management area shall be responsible for implementing those components of the plan it is assuming on behalf of the county. ***In counties containing a consolidated local government, all municipalities therein shall be deemed to be participating in the solid waste management plan adopted by the waste management district unless a municipality shall, by ordinance, specifically opt out of the plan, in which event the municipality shall comply with all requirements of KRS Chapter 224 and administrative regulations promulgated pursuant thereto.*** However, the cabinet shall not disapprove a solid waste management plan for a single county ***or municipality within a consolidated local government*** if the plan complies with the requirements of KRS Chapter 224 and administrative regulations adopted by the cabinet. Plans shall be updated once every five (5) years. Plans may be amended and such amendments shall be submitted to the cabinet for review and approval. The review and approval of the cabinet shall be limited to a determination of whether the proposed amendments are in conformity with KRS 224.43-345 and the statewide solid waste reduction and management plan and KRS Chapter 224 and administrative regulations adopted by the cabinet.
- (3) A county may delegate responsibility for preparing all or portions of the plan to one (1) or more cities within the county. Such delegation of responsibility shall be made only with the mutual agreement of the city and county. Each city and county shall be included in a solid waste management plan.
- (4) Cities authorized under KRS 224.43-315 shall have the sole responsibility for developing and preparing the portion of the solid waste management plan applicable to the jurisdiction of the city, unless the city elects to have the county prepare the plan. If the city prepares the solid waste management plan for its jurisdiction, the city plan shall be incorporated within the area plan prior to its submission to the cabinet. The plan developed by the city, to the extent practicable, shall be reasonably consistent with the plan developed by the county. The cabinet, as a part of the area plan approval process, shall determine whether the city portion of the area plan is reasonably consistent with the overall area plan so as to effectuate the purposes of this chapter.
- (5) Cities, other than those authorized under KRS 224.43-315, operating solid waste management facilities or services, or who contracted with a person to provide such services on or before July 13, 1984, and pay a pro rata share of the cost of plan development may assume joint responsibility with a county for plan development. Where joint responsibility for plan development is assumed, both the county fiscal court and city legislative body must adopt the plan before it is submitted to the cabinet for approval.
- (6) Counties, waste management districts, or any combination thereof preparing the solid waste management plan shall apply for and be designated as a solid waste management area. The application shall be submitted by June 1, 1991. The application shall include but not be limited to:
 - (a) A brief description of existing disposal capacity and of the capability of the proposed area to effectively manage solid waste;
 - (b) Resolution of the fiscal courts of all counties in the proposed area approving the application for designation;
 - (c) Resolution of those city legislative bodies in the proposed area that are currently operating solid waste management facilities or services and will participate in and provide financial assistance in plan development;
 - (d) Any agreement or contract necessary to establish the proposed area; and

- (e) Resolution of the boards of any existing waste management districts located within the proposed area approving the application for designation.
- (7) The jurisdiction of the solid waste management area shall be limited to the geographical area established or designated by the cabinet in accordance with the provisions of this chapter unless the preparer submits justification for any deviation therefrom acceptable to the cabinet.
- (8) Upon receipt of such application, the cabinet shall, within thirty (30) days either approve the creation of a proposed solid waste management area or shall disapprove such application, and in the event of disapproval shall state in writing the reasons for such disapproval. Any changes in the application contents shall be submitted to the cabinet.
- (9) Solid waste management areas shall be designated for five (5) year periods. At the end of five (5) years, the plan shall be updated and reapproved by the cabinet.
- (10) If the cabinet does not receive on behalf of a county a solid waste management plan and the application for a solid waste management area in which the county will participate required by this section and KRS 224.43-345, the cabinet may develop a solid waste management plan for that county or may place that county in a designated solid waste management area.
- (11) If the solid waste management plan for a county is not implemented, the Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for that county.
- (12) The governing body of a solid waste management area may employ an enforcement representative to ensure compliance with applicable regulations of the cabinet relating to construction and operation of municipal solid waste management facilities. The enforcement representative shall possess at least minimum qualifications required of representatives of the cabinet performing similar functions.

➔Section 5. KRS 109.310 is amended to read as follows:

- (1) A county or urban-county government may collect solid waste pick-up fees which are delinquent three (3) consecutive months or more by combining the delinquent fees with the property tax bill for the property where the solid waste pick-up is made. The fees shall be limited to a return on capital expenditures and to cover operational costs.
- (2) The pick-up fee when combined with the property tax bill shall be clearly set out as the delinquent amount owed for solid waste pick-up services and shall in no way be represented as an assessment based on the value of the property.
- (3) Sixty (60) days before a property tax bill which includes a delinquent solid waste pick-up fee is mailed, the county office responsible for solid waste pick-up billing shall give written notice to the owner of the property that the pick-up bill is delinquent and that, if left unpaid, the fee will be combined with the next property tax bill.
- (4) A county or urban-county government may waive the solid waste pick-up fee for businesses which request a waiver. The request for a waiver shall include a certification that the solid waste generated by the business is disposed of properly and include a description of the disposal method and the property owner's federal employer's identification number.
- (5) If the owner of the property is not the occupant of the property where the solid waste is picked up, the county or urban-county government shall waive the delinquent solid waste pick-up fee portion of the property tax bill if the owner of the property requests a waiver. In requesting the waiver, the owner shall certify he is not the occupant of the property and that the occupant will be notified that failure of the occupant to pay the solid waste pick-up fee will be considered a breach of the occupant's lease making the occupant subject to eviction.
- (6) (a) *Notwithstanding the provisions of subsections (1) to (5) of this section, or any other provision of law to the contrary, no fine or fee shall be assessed on a residential property owner or lien placed on the residential property, relating to the failure of an occupant of the residential property to enter into a contract for solid waste collection services, or failure to pay solid waste pick-up fees if:*
 - 1. *The residential property owner does not occupy the residential property; and*
 - 2. *There is no valid agreement for the residential property owner to pay for or otherwise provide for solid waste collection services on behalf of the occupant.*

- (b) *A fine or fee may be assessed against the occupant of the residential property or a lien may be placed on the property of the occupant when the occupant has failed to enter into a contract for solid waste collection services, or has failed to pay solid waste pick-up fees.*

➔Section 6. The amendments to KRS 109.115 in Section 2 of this Act shall be applied, on the effective date of this Act, to declare vacant the offices of current board members of a solid waste management district in a county containing a consolidated local government who were appointed under subsection (3) of Section 2 of this Act prior to its amendment in this Act. The mayor of the consolidated local government shall fill the vacant positions within 90 days of the effective date of this Act in accordance with subsection (4) of Section 2 of this Act; otherwise all appointment authority shall shift to the Governor.

➔Section 7. Whereas the citizens of counties containing a consolidated local government will be better served by a reconstituted waste management district board that is more diverse and representative of and responsive to the populace, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2017.

CHAPTER 106

(HB 153)

AN ACT relating to compensation of insurance producers for services performed in relation to a premium finance loan.

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

➔Section 1. KRS 304.30-050 is amended to read as follows:

- (1) The commissioner may revoke or suspend the license of any premium finance company when and if, after investigation, it appears to the commissioner that:
 - (a) Any license issued to the company was obtained by fraud;
 - (b) There was any misrepresentation in the application for the license;
 - (c) The holder of the license has otherwise shown himself or herself untrustworthy or incompetent to act as a premium finance company;
 - (d) The company has violated any of the provisions of this chapter; or
 - (e) The company has been rebating part of the service charge as allowed and permitted by KRS 304.30-090 to any insurance agent or any employee of an insurance agent or to any other person as an inducement to the financing of any insurance policy with the premium finance company, *except as provided in subsection (2) of this section.*
- (2) *Transactions related to the financing of insurance premiums for personal and commercial lines of insurance shall not be deemed a rebate of the service charge in violation of subsection (1)(e) of this section if:*
 - (a) *The transaction is arranged by an insurance agent who discloses in writing to the insured:*
 1. *The source of any compensation to be received by the agent as a result of the insured entering into a premium finance agreement; and*
 2. *The amount of compensation, as a percentage of the premiums financed, if the amount of compensation received by the agent exceeds two percent (2%) of the premium amount financed; and*
 - (b) *The amount of compensation is based only on actual premiums financed and is not paid as:*
 1. *An advance on future premium finance agreements; or*
 2. *A form of bonus for the agent agreeing to place finance agreements with the premium finance company.*

- (3) Before the commissioner shall revoke, suspend, or refuse to renew the license of any premium finance company, he or she shall give to the person an opportunity for a hearing to be conducted in accordance with KRS Chapter 13B. In lieu of or in addition to revoking or suspending the license for any of the causes enumerated in the section, after hearing as provided in this subsection, the commissioner may subject the company to a penalty specified in Subtitle 99 of this chapter when the commissioner determines that the public interest would not be harmed by the continued operation of the company. The amount of any penalty shall be paid by the company through the department of the commissioner to the State Treasurer.
- ~~(4)(3)~~ If any applicant or licensee is aggrieved by any final order of the commissioner, the applicant or licensee shall have the right to appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Signed by Governor March 24, 2017.

CHAPTER 107

(SB 146)

AN ACT relating to the licensure of genetic counselors.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act:

- (1) *"ABGC" means the American Board of Genetic Counseling or its successor or equivalent;*
- (2) *"ABMG" means the American Board of Medical Genetics and Genomics or its successor or equivalent;*
- (3) *"ACGC" means the Accreditation Council for Genetic Counseling or its successor or equivalent;*
- (4) *"Active candidate status" or "ACS" means a status conferred upon a person who has met the requirements to take the ABGC certification examination in general genetics and genetic counseling and has been granted this designation by the ABGC;*
- (5) *"Board" means the State Board of Medical Licensure created in KRS 311.530;*
- (6) *"CEU" means a continuing education unit approved by the National Society of Genetic Counselors (NSGC);*
- (7) *"Committee" means the Kentucky Genetic Counselors Advisory Committee created in Section 6 of this Act under the State Board of Medical Licensure;*
- (8) *"Examination for licensure" means the ABGC or ABMG certification examination;*
- (9) *"Genetic counseling" means the provision of services by a genetic counselor to:*
 - (a) *Obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other family members;*
 - (b) *Discuss the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions and diseases;*
 - (c) *Identify, order, and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment consistent with practice-based competencies provided by ACGC;*
 - (d) *Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic or medical conditions and diseases;*
 - (e) *Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results;*
 - (f) *Evaluate the client's or family's responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;*

- (g) *Identify and utilize community resources that provide medical, educational, financial, and psychosocial support and advocacy; or*
- (h) *Provide written documentation of medical, genetic, and counseling information for families and health care professionals;*
- (10) *"Genetic counseling intern" means a student enrolled in a genetic counseling program accredited by the ACGC or ABMG;*
- (11) *"Genetic counselor" means an individual licensed by the board to engage in the competent practice of genetic counseling;*
- (12) *"NSGC" means the National Society of Genetic Counselors or its successor or equivalent;*
- (13) *"Qualified supervisor" means any person licensed as a genetic counselor under Sections 1 to 7 of this Act or a licensed physician; and*
- (14) *"Supervision" means the overall responsibility of a qualified supervisor to assess the work of the genetic counselor with a temporary license, including regular meetings and chart review, if an annual supervision contract signed by the supervisor and the temporarily licensed genetic counselor is on file with both parties. The supervisor's presence shall not be required during the performance of the service.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *On and after January 1, 2018, a person shall not engage in the practice of genetic counseling in this state without a valid license issued by the board.*
- (2) *A person shall not hold himself or herself out as a genetic counselor unless he or she holds a license issued by the board in accordance with Section 4 of this Act. A person not licensed by the board shall not use in connection with his or her name or place of business the terms "genetic counselor," "licensed genetic counselor," "gene counselor," "genetic consultant," "genetic associate," or any words, letters, abbreviations, or insignia indicating or implying the person holds a genetic counseling license.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 7 of this Act shall not apply to:

- (1) *Any person licensed by the state to practice in a profession other than that of a genetic counselor when acting within the scope of the person's profession and doing work of a nature consistent with the person's training. The person shall not hold himself or herself out to the public as a genetic counselor;*
- (2) *Any person employed as a genetic counselor by the federal government or an agency of the federal government if the person provides genetic counseling services solely under the direction and control of the organization by which he or she is employed; and*
- (3) *A student or intern enrolled in an ACGC-accredited genetic counseling educational program if genetic counseling services performed by the student are an integral part of the student's course of study and are performed while:*
 - (a) *Under the direct instruction of a licensed genetic counselor assigned to the student;*
 - (b) *The student is on duty and available in the assigned patient care area; and*
 - (c) *The student is designated with the title of "genetic counseling intern."*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may issue a license as a genetic counselor to an applicant who:*
 - (a) *Submits an application to the board on a form prescribed by the board;*
 - (b) *Pays a fee determined by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A; and*
 - (c) *Provides satisfactory evidence of possessing certification as a:*
 - 1. *Genetic counselor by the ABGC or ABMG; or*
 - 2. *Medical geneticist by the ABMG.*
- (2) (a) *The board may issue a temporary license to an applicant who:*

1. *Has been granted an active candidate status by the ABGC; and*
2. *Pays a fee determined by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A.*
- (b) *A person issued a temporary license under this subsection:*
 1. *Shall apply for and take the examination for certification within twelve (12) months of the issuance of the temporary license; and*
 2. *May only practice if he or she has entered into a genetic supervision contract and is directly supervised by a licensed genetic counselor or a licensed physician.*
- (c) *A temporary license granted by the board shall be valid for one (1) year from the date issued and shall expire upon the earliest of the following:*
 1. *Issuance of a license pursuant to subsection (1) of this section;*
 2. *Thirty (30) days after the holder fails to pass the complete certification examination; or*
 3. *The expiration date printed on the license.*
- (3) (a) *Whenever, in the opinion of the executive director of the board, based upon verified information contained in the application, an applicant for a license to practice as a genetic counselor is eligible for licensure under this section, the executive director may issue to the applicant, on behalf of the board, a temporary license which shall entitle the holder to practice as a genetic counselor for a maximum of one (1) year from the date of issuance. The temporary license shall not be renewable.*
- (b) *The temporary license may be canceled by the executive director, who may cancel it at any time, without a hearing, for reasons deemed sufficient with appropriate consultation with the president, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular license.*
- (4) *The executive director shall present to the board the application for licensure made by the holder of the temporary license. If the board issues a regular license to the holder of a temporary license, the fee paid in connection with the temporary license shall be applied to the regular license fee.*
- (5) *If the executive director cancels a temporary license, he or she shall promptly notify, by United States certified mail, the holder of the temporary license at the last known address on file with the board. The temporary license shall be terminated and have no further force or effect three (3) days after the date the notice was sent by certified mail.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *A license issued by the board shall expire on June 30 of even-numbered years unless sooner suspended or revoked.*
- (2) *To renew a license, an applicant shall:*
 - (a) *Pay a renewal fee; and*
 - (b) *Meet all other requirements for renewal under this chapter.*
- (3) *If a licensee fails to pay a renewal fee, the license becomes inactive without further action by the board.*
- (4) *If a person holds an inactive license, the board shall reinstate the license if the applicant for reinstatement:*
 - (a) *Submits a completed renewal application;*
 - (b) *Pays the current renewal fee;*
 - (c) *Pays a reinstatement fee determined by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A; and*
 - (d) *Provides the board with a sworn statement, signed by the applicant, that he or she has fulfilled the continuing education requirements prescribed by the board for the current renewal period.*
- (5) (a) *Except for disciplinary actions taken pursuant to Section 7 of this Act, a licensee whose license has been revoked may, after two (2) years from the effective date of the revocation order, petition the board for a license to again practice in the Commonwealth of Kentucky.*

- (b) *The board shall not be required to issue a new license as described in this subsection. No new license shall be issued unless the applicant satisfies the board that the former licensee is presently of good moral character and qualified both physically and mentally to resume the practice of genetic counseling without undue risk or danger to the licensee's patients or the public.*
 - (c) *If the board issues a new license under the circumstances described in this subsection, the new license shall be under probation for a period of not less than two (2) years nor more than five (5) years, and any subsequent violation during the probationary period shall result in automatic revocation of the license.*
- (6) *To renew a license under this section, an applicant shall complete continuing education. The continuing education shall consist of the completion in each two (2) year license cycle of thirty (30) contact hours that have been approved by NSGC.*
- (7) *An applicant seeking renewal of a license shall certify that he or she:*
 - (a) *Has complied with the continuing education requirements; or*
 - (b) *Has not complied with the continuing education requirements, but is seeking a waiver from the board under subsection (8) of this section.*
- (8) *The board may grant an applicant seeking renewal of a license a waiver from all or part of the continuing education requirement for the renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following conditions:*
 - (a) *Service in the Armed Forces of the United States during a substantial part of the renewal period;*
 - (b) *An incapacitating illness or injury; or*
 - (c) *Other circumstances determined by the board.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of genetic counselors, which shall include but not be limited to promulgation of reasonable administrative regulations enabling the board to regulate the conduct of genetic counselor licensees. The board shall also:*
 - (a) *Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licensure or permits that may be issued by the board; and*
 - (b) *Prescribe and collect reasonable fees and charges for the issuance and renewal of licenses.*
- (2) *There is hereby created the Kentucky Genetic Counselors Advisory Committee, composed of seven (7) members appointed by the board from a list of nine (9) names submitted by the Kentucky Association of Genetic Counselors or its successor. The committee shall review and make recommendations to the board regarding all matters relating to genetic counselors, including but not limited to:*
 - (a) *Applications for licensure;*
 - (b) *Licensure renewal requirements;*
 - (c) *Disciplinary investigations or action, when specifically requested by one (1) of the board's panels established under KRS 311.591; and*
 - (d) *Promulgation of administrative regulations.*
- (3) *Members of the committee shall be appointed by the board for four (4) year terms, except for initial appointments, and shall consist of:*
 - (a) *Four (4) practicing licensed genetic counselors who shall each be selected for each vacancy from a list of at least six (6) licensed genetic counselors submitted by the Kentucky Association of Genetic Counselors or its successor;*
 - (b) *One (1) supervising physician;*
 - (c) *One (1) member of the board; and*
 - (d) *One (1) citizen at large.*

- (4) *The chair of the committee shall be a licensed genetic counselor elected by a majority vote of the committee members and shall preside over meetings. Meetings shall be held quarterly at a time and place within the Commonwealth as designated by the chair. Additional meetings may be held at the call of the chair or upon the written request of three (3) committee members.*
- (5) *Initial appointments shall be for staggered terms. Three (3) members shall serve a four (4) year term, three (3) members shall serve a two (2) year term, and one (1) member shall serve a one (1) year term.*
- (6) *Members of the committee shall not be compensated for their service but shall receive reimbursement for expenditures relating to attendance at committee meetings, consistent with state policies for the reimbursement of travel expenses for state employees.*
- (7) *A committee member may be removed by the board for good cause or if he or she misses two (2) consecutive committee meetings without good cause.*
- (8) *Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the board in the same manner as the original appointment.*
- (9) *The quorum required for any meeting of the committee shall be four (4) members. No action by the committee or its members shall have any effect unless a quorum of the committee is present at the meeting where the action is taken.*
- (10) *The board shall not be required to implement or adopt the recommendations of the committee.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may revoke, suspend, deny, decline to renew, limit, or restrict the license of a genetic counselor, or may fine, reprimand, or place a genetic counselor on probation for no more than five (5) years upon proof that a genetic counselor has:*
 - (a) *Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for licensure;*
 - (b) *Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for licensure;*
 - (c) *Been convicted by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;*
 - (d) *Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;*
 - (e) *Developed a physical or mental disability or other condition that presents a danger in continuing to practice genetic counseling to patients, the public, or other health care personnel;*
 - (f) *Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of genetic counseling;*
 - (g) *Performed any act or service as a genetic counselor without designated supervision;*
 - (h) *Exceeded the scope of practice for which the genetic counselor is licensed by the board;*
 - (i) *Aided, assisted, or abetted the unlawful practice of genetic counseling;*
 - (j) *Willfully violated a confidential communication;*
 - (k) *Performed the services of a genetic counselor in an unprofessional, incompetent, or grossly or chronically negligent manner;*
 - (l) *Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of Sections 1 to 7 of this Act;*
 - (m) *Violated any applicable provision of administrative regulations relating to genetic counseling;*
 - (n) *Violated any term of probation or other discipline imposed by the board; or*
 - (o) *Failed to complete the required number of hours of approved continuing education.*
- (2) *All disciplinary proceedings against a genetic counselor shall be conducted in accordance with KRS Chapter 13B. Any party aggrieved by a final order of the board may appeal to the Jefferson Circuit Court.*

➔Section 8. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
 - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
 - (a)
 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
 - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates KRS 311.905(3) shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24)
 - (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
 - (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).
- (30) ***Any person who violates Section 2 of this Act shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating Section 2 of this Act from practicing genetic counseling in violation of the requirements of Sections 1 to 7 of this Act.***

➔Section 9. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, ***the practice of genetic counseling as defined in Section 1 of this Act***, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;
- (18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;
- (19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);
- (20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;
- (21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;

- (22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;
- (23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;
- (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;
- (25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;
- (26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;
- (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;
- (28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and
- (29) "Special faculty license" means a license to practice medicine that is limited to the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

Signed by Governor March 24, 2017.

CHAPTER 108

(SB 150)

AN ACT relating to long-term care facilities.

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

➔Section 1. KRS 216.555 is amended to read as follows:

- (1) If upon inspection or investigation the cabinet determines that a long-term care facility has violated the regulations, standards, and requirements as set forth by the cabinet pursuant to the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act and such violation has been classified in KRS 216.557, the cabinet shall immediately issue a citation to the licensee of the long-term care facility. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or regulation alleged to have been violated.
- (2) *Except as otherwise provided in this section, the results of a survey, inspection, or investigation of a long-term care facility conducted by any state or federal department or agency, including all statements of deficiencies, findings of deficiency, and all plans of correction, shall not be used in an advertisement publication, unless the advertisement publication includes all of the following:*
 - (a) *The date the survey, inspection, or investigation was conducted;*
 - (b) *A statement that a facility is required to submit a plan of correction in response to a statement of deficiencies, if applicable;*

- (c) *If a finding or deficiency cited in the statement of deficiencies has been corrected, a statement that the finding or deficiency has been corrected and the date that the finding or deficiency was corrected; and*
 - (d) *A statement that the advertisement publication is not authorized or endorsed by the Cabinet for Health and Family Services, Office of Inspector General, the Centers for Medicare and Medicaid Services, or any other government agency.*
- (3) *This section does not prohibit the results of a survey, inspection, or investigation conducted under this section from being used in an administrative proceeding or a civil or criminal investigation or prosecution.*
 - (4) *The information required by subsection (2) of this section shall:*
 - (a) *Be in the same color, font, and size as the other language on or in the advertisement publication; and*
 - (b) *Appear as prominent as other language used in the advertisement publication.*

Signed by Governor March 27, 2017.

CHAPTER 109

(SB 159)

AN ACT relating to civics education in public schools.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning on July 1, 2018, to graduate from a Kentucky public high school with a regular diploma, a student shall pass a civics test composed of one hundred (100) questions drawn from those that are set forth within the civics test administered by the United States Citizenship and Immigration Services to persons seeking to become naturalized citizens.*
- (2) *A local board of education shall prepare or approve a test composed of the questions described in subsection (1) of this section and shall disseminate the test to all public high schools of the district. The test shall be administered by the public high schools in each district.*
- (3) *A public high school shall provide each student with the opportunity to take the test as many times as necessary for the student to pass the test. A student shall not receive a regular high school diploma until the student passes the test.*
- (4) *A student passes the test if at least sixty percent (60%) of the questions are answered correctly.*
- (5) *A student who has passed a similar test within the previous five (5) years shall not be required to take the test under this section.*
- (6) *Provisions of this section shall be subject to the requirements and accommodations of a student's individualized education program as defined in KRS 158.281 or a Section 504 Plan as defined in KRS 156.027.*

Signed by Governor March 27, 2017.

CHAPTER 110

(SB 170)

AN ACT relating to reorganization.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.

1. Governor's Scholars Program.
2. Governor's School for Entrepreneurs Program.
- (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
2. Office of General Counsel.
3. Office of Administrative Hearings.
4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.

- b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.

- (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
- (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information and Research.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. Workers' Compensation Advisory Council.
 - 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.

- (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.

- (j) Department for Public Health.
- (k) Department for Medicaid Services.
- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (m) Department for Aging and Independent Living.
- (n) Department for Community Based Services.
- (o) Department for Income Support.
- (p) Department for Family Resource Centers and Volunteer Services.
- (q) Kentucky Commission on Community Volunteerism and Service.
- (r) Kentucky Commission for Children with Special Health Care Needs.
- (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of ~~Travel and~~ Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.

1. Division of Information Technology.
 2. Division of Human Resources.
 3. Division of Financial Operations.
 4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.

- (f) Office of the Secretary.
 - 1. Office of Finance.
 - 2. ~~Office of Research and Administration.~~
 - 3. ~~Office of **Government** [Governmental] Relations and **Administration** [Tourism Development].~~
 - 3. ~~4. Office of **Film and Tourism Development** [the Sports Authority].~~
 - 4. ~~5. Kentucky Sports Authority.~~
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 2. The General Assembly confirms Executive Order 2016-856, dated December 1, 2016, relating to the Tourism, Arts and Heritage Cabinet, which creates the Office of Film and Tourism Development, abolishes the Office of Research and Administration, the Commission on Small Business Advocacy, and the Office of Sport Authority that are attached to that cabinet, and that renames the Office of Governmental Relations and Tourism Development and the Department of Travel and Tourism, to the extent that the executive order is not otherwise confirmed or superseded by this Act.

Signed by Governor March 27, 2017.

CHAPTER 111

(SB 177)

AN ACT relating to the Personnel Cabinet.

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

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

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

- (b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;
 - (c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;
 - (d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;
 - (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;
 - (f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group; and
 - (g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.
- (2) (a) *1. In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2015, the Personnel Cabinet shall offer a health reimbursement account or health flexible spending account for public employees insured under the Public Employee Health Insurance Program.*
- 2. The Personnel Cabinet may offer a health savings account in conjunction with a high deductible health plan option as defined by 26 U.S.C. sec. 223(c)(2) or as an optional account to which the Personnel Cabinet may deposit funds of an employee who waives coverage in accordance with paragraph (b) of this subsection, provided the employee who waives coverage is eligible to contribute to a health savings account.*
- (b) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet for that employee as an employer contribution to the health reimbursement account or health flexible spending account, but not less than one hundred seventy-five dollars (\$175) per month, subject to any conditions or limitations imposed by the secretary to comply with applicable federal law.
 - (c) The administrative fees associated with the *employee's health savings account*, health reimbursement account, or health flexible spending account shall be an authorized expense to be charged to the public employee health insurance trust fund.
- (3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. Unless authorized by the General Assembly, the trust fund shall not utilize funds for any other purpose and the trust fund receipts from prior plan years shall not be used to pay claims and expenses for current or subsequent plan years, except as provided by paragraph (b) of this subsection.

- (b) In the event of a projected deficit in the trust fund balance of a prior plan year, the secretary of the Finance and Administration Cabinet may declare an emergency and transfer up to twenty-five percent (25%) of another prior plan year's balance to that plan year, provided the Governor, all members of the General Assembly, and Legislative Research Commission are notified at least thirty (30) days prior to the transfer. The Legislative Research Commission shall refer the notice to appropriate committees of jurisdiction for their review.
- (c) The following moneys shall be directly deposited into the trust fund:
 - 1. Employer and employee premiums collected under the self-insured plan;
 - 2. Interest and investment returns earned by the self-insured plan;
 - 3. Rebates and refunds attributed to the self-insured plan; and
 - 4. All other receipts attributed to the self-insured plan.
- (d) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraphs (a) and (b) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund. Any balance for a specific plan year and any subsequent interest income for that specific plan year shall be accounted for separately.
- (e) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.
- (f) The secretary of the Personnel Cabinet shall file a quarterly report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006, and subsequent reports shall be submitted no later than sixty (60) days following the end of each calendar quarter. The report shall include the following:
 - 1. The current balance of the trust fund and the amount of the balance associated with each plan year;
 - 2. A detailed description of all income to the trust fund since the last report;
 - 3. A detailed description of any receipts due to the trust fund;
 - 4. A total amount of payments made for medical and pharmacy claims from the trust fund by plan year;
 - 5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
 - 6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
 - 7. Any other information the secretary may include;
 - 8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
 - 9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
 - a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
 - b. A statement of any other trust fund liabilities;

- c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes;
- d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months; and
- e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
 - i. Any results or outcomes of disease management and wellness programs;
 - ii. Results of case management audits and educational and communication efforts; and
 - iii. Comparison of actual measurable results to contract performance guarantees.

➔Section 2. KRS 18A.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. The secretary shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.
- (2) The secretary of the Personnel Cabinet or the secretary's designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.
- (3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:
 - (a) Office of the Secretary, which shall be responsible for communication with state employees about personnel and other relevant issues and for the administration and coordination of the following:
 - 1. Office of Employee Relations, composed of the following programs:
 - a. Workers' Compensation Program pursuant to KRS 18A.375;
 - b. ~~{Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220;~~
 - ~~e.}~~ Sick leave Sharing Program, pursuant to KRS 18A.197;
 - ~~c. {d.}~~ Annual Leave Sharing Program, pursuant to KRS 18A.203;
 - ~~d. {e.}~~ Health and Safety Program;
 - ~~e. {f.}~~ Employee Assistance Program;
 - ~~f. {g.}~~ Employee Incentive Programs, pursuant to KRS 18A.202; and
 - ~~g. {h.}~~ Employee Mediation Program;
 - 2. Office of Administrative Services, which shall be responsible for the Personnel Cabinet's administrative functions, ***composed of the following programs:***
 - a. Division of Technology Services;***
 - b. Division of Human Resources; and***
 - c. Division of Financial Services;***
 - 3. Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives upon request;
 - 4. Office of Diversity,~~{and}~~ Equality, ***and Training***, which shall coordinate and implement diversity initiatives for state agencies, the affirmative action plan established by KRS 18A.138,

the state Equal Employment Opportunity Program, and the Minority Management Trainee Program;

5. Governmental Services Center, which shall be responsible for employee and managerial training and organizational development;
 6. Kentucky Public Employees Deferred Compensation Authority, which shall maintain a deferred compensation plan for state employees; and
 7. ***Office of Public Affairs***~~[Center for Strategic Innovation]~~, which shall assist in all aspects of developing and executing the strategic direction of the cabinet;
- (b) Department of Human Resources Administration, which shall be composed of the:
1. Division of Employee Management, which shall be responsible for payroll, records, classification, and compensation. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to 118A.1132 and shall monitor and assist state agencies in complying with the provisions of the federal Fair Labor Standards Act. The division shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;
 - b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;
 - c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and
 - d. Coordinate and implement the employee performance evaluation systems throughout state government; ***and***
 2. Division of Career Opportunities, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:
 - a. Operate a centralized applicant and employee counseling program;
 - b. Operate, coordinate, and construct the examination program for state employment;
 - c. Prepare registers of candidate employment;
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
 - ~~{3. Division of Technology Services, which shall be responsible for the development and maintenance of all technology and technology infrastructure; and}~~
- (c) Department of Employee Insurance, which shall be responsible for the:
1. Health Insurance Program, pursuant to KRS 18A.225;
 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
 3. Division of Insurance Administration, which shall be responsible for enrollment and service functions;~~{and}~~
 4. Division of Financial and Data Services, which shall be responsible for fiscal and data analysis functions; ***and***
 5. ***Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220.***
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

➔Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they

are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.

1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.

4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.

- e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.

- (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information and Research.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. Workers' Compensation Advisory Council.
 - 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.

2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

- (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.

4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.

- 3. Office of Governmental Relations and Tourism Development.
- 4. Office of the Sports Authority.
- 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity, ~~and~~ Equality, *and Training*.
 - (j) *Office of Public Affairs* ~~[Center of Strategic Innovation]~~.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.

- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 4. The General Assembly hereby confirms Executive Order 2016-555, dated July 27, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 27, 2017.

CHAPTER 112

(SB 195)

AN ACT relating to expungement of juvenile records.

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

➔Section 1. KRS 610.330 is amended to read as follows:

- (1) (a) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635~~[(with regard to status offenses, misdemeanors, or violations only)]~~, or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of *offenses from* his or her juvenile court record~~[, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult]~~. He or she shall be informed of such right at the time of adjudication.
- (b) The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court.
- (c) *Expungement shall not be granted if:*
 - 1. *There are any proceedings pending or being instituted against the child;*
 - 2. *The offense is a sex crime, as defined in KRS 17.500; or*
 - 3. *The offense would classify a person as a violent offender under KRS 439.3401.*
- (2) *A petition may seek the expungement from the juvenile court record of:*
 - (a) *Misdemeanors, violations, or status offenses;*
 - (b) *A single felony; or*
 - (c) *A series of felonies arising from a single incident.*
- (3) The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his or her unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Health and Family Services or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.
- ~~(4)(2)~~ Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his or her parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.
- ~~(5)(3)~~ The court ~~may~~~~[shall]~~ order *the adjudication vacated and*~~[sealed]~~ all records *expunged* in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, ~~unless~~~~[if]~~

at the hearing the *county attorney establishes*~~[court finds]~~ that *the child or offense is ineligible for expungement under subsections (1) to (4) of this section*~~;~~

~~(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1); and~~

~~(b) No proceeding concerning a felony and no petition under KRS 610.010(1) is pending or being instituted against him~~.

~~(6)~~~~(4)~~ Upon the entry of an order to *expunge*~~[seal]~~ the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter. *The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.*

(7) *If a court dismisses a petition against a child or finds a child not delinquent in a juvenile proceeding, the court shall concurrently order the record of the proceeding expunged. The order expunging the proceedings shall not require any action by the child.*

~~(8)~~~~(5)~~ Copies of the order shall be sent to each agency or official named therein.

~~(9)~~~~(6)~~ Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Signed by Governor March 27, 2017.

CHAPTER 113

(SB 205)

AN ACT relating to prescription drugs.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) *Notwithstanding any statute to the contrary, unless the practitioner has specified on the prescription drug order that dispensing a prescription for a noncontrolled maintenance drug in an initial amount followed by periodic refills is medically necessary, a pharmacist may exercise professional judgement to dispense varying quantities of the prescribed drug per fill up to the total number of dosage units as authorized by the practitioner on the prescription drug order, including any refills, up to a ninety (90) day supply.*

(2) *This section does not apply to controlled substances or to any drugs for which a report is required to the electronic system for monitoring controlled substances established in KRS 218A.202.*

Signed by Governor March 27, 2017.

CHAPTER 114

(SB 224)

AN ACT relating to civil actions involving sexual misconduct.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, "injury or illness" means either a physical or psychological injury or illness.*

- (2) *A civil action for recovery of damages for an injury or illness suffered as a result of an act or series of acts against a person eighteen (18) years old or older that meets the criteria of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 510.150, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 531.090, or 531.100, shall be brought before whichever of the following periods last expires:*
- (a) *Within five (5) years of the act or the last of a series of acts by the same perpetrator;*
 - (b) *Within five (5) years of the date the victim knew, or should have known, of the act;*
 - (c) *Within five (5) years upon knowledge or identity of the perpetrator; or*
 - (d) *Within five (5) years of the conviction of a civil defendant for KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 510.150, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 531.090, or 531.100.*
- (3) *No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action under this section for redress of an injury or illness.*

➔Section 2. KRS 413.249 is amended to read as follows:

- (1) As used in this section:
- (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where the offense involves commercial sexual activity, 529.110 where the offense involves commercial sexual activity, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
 - (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;
 - (c) "Child" means a person less than eighteen (18) years old; and
 - (d) "Injury or illness" means either a physical or psychological injury or illness.
- (2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:
- (a) Within ~~ten (10)~~~~five (5)~~ years of the commission of the act or the last of a series of acts by the same perpetrator;
 - (b) Within ~~ten (10)~~~~five (5)~~ years of the date the victim knew, or should have known, of the act; ~~or~~
 - (c) Within ~~ten (10)~~~~five (5)~~ years after the victim attains the age of eighteen (18) years; **or**
 - (d) ***Within ten (10) years of the conviction of a civil defendant for an offense included in the definition of childhood sexual abuse or childhood sexual assault.***
- (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than ~~ten (10)~~~~five (5)~~ years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:
- (a) The court rules upon the motion to seal;
 - (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or
 - (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

Signed by Governor March 27, 2017.

CHAPTER 115

(SB 236)

AN ACT relating to the protection of children.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) *A parent or legal guardian employing an individual to care for his or her minor child may request the results of a background check of the child abuse and neglect records maintained by the cabinet from the individual by submitting the same form and paying the same fee that would be submitted by an entity required by law to request such a background check on an employee or volunteer for the purpose of determining whether there has been a substantiated finding of child abuse or neglect for the child-care provider. The form shall contain the signature of the individual consenting to the background check.*
- (2) *The cabinet shall notify the individual on whom the background check was completed of the results.*
 - (a) *If the results show no substantiated findings of child abuse or neglect on the registry for the individual, the cabinet shall send the individual a letter stating that they have no findings of substantiated abuse or neglect.*
 - (b) *If the results show substantiated findings of child abuse or neglect on the registry for the individual, the cabinet shall send the individual the results of the search.*
- (3) *The cabinet shall make the form for requesting a background check of the child abuse and neglect records maintained by the cabinet available on its Web site along with information on how to locate a child-care provider certified or licensed by the cabinet and how to request a criminal background check for a child-care provider.*
- (4) *The cabinet shall promulgate administrative regulations to implement subsection (1) of this section.*

➔Section 2. KRS 160.151 is amended to read as follows:

- (1) (a) **1.** A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with ~~the provisions of~~ KRS 156.160(3) may require a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on each certified teacher once every five (5) years of employment.
- 2.** Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** for previous employment may be excluded from the initial national or state criminal background checks.
- (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.

- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) If a school requires a criminal background check *or requires a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: **"STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."**
- (a) For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
 - (b)
 1. The school or school board may require a contractor *who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor* to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts *and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
 2. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police *if required*. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. *If a background check of child abuse and neglect records is requested, the person seeking employment shall provide to the hiring superintendent a letter from the Cabinet for Health and Family Services stating the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
 3. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3) *or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services*. A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing~~the provisions of~~ this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check *or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
 - (c) Employment at a nonpublic school implementing~~the provisions of~~ this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 *or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings*

of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

- (d) Nonpublic schools implementing ~~the provisions of~~ this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 ***or the receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.***
- (4) ***The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.***

➔Section 3. KRS 160.380 is amended to read as follows:

- (1) As used in this section:

- (a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
- (b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;
- (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and
- (d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

- (2) Except as provided in KRS 160.346:

- (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;
- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative

regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district;

- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection; and
- (g)
 - 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
 - 2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 - 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 - 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony *or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services*. The superintendent may employ, at his discretion, *except at a Kentucky Educational Collaborative for State Agency Children program*, persons convicted of sex crimes classified as a misdemeanor.
- (5)
 - (a) A superintendent shall require a national and state criminal background check *and require a letter, provided by the individual, from the Cabinet for Health and Family Services indicating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check *and who have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the

Department of Kentucky State Police and the Federal Bureau of Investigation *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*

- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police, ~~and~~ the Federal Bureau of Investigation, *and the Cabinet for Health and Family Services* shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (6) (a) A superintendent shall require a *national and* state criminal background check *and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* on all classified initial hires.
- (b) The superintendent shall require that each classified initial hire submit to a *national and* state criminal history background check by the Department of Kentucky State Police *and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.* ~~If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.~~
- (c) Any request for *any criminal background* records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under ~~the provisions of~~ paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police *and the Cabinet for Health and Family Services* shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7) (a) The superintendent ~~shall~~ *may* require a contractor *who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor* to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. *If requested*, the results of the state criminal background check and the results of the national criminal history background check ~~, if requested,~~ *and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services* shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police *and the Cabinet for Health and Family Services* shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (8) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.* Application for the criminal record *and a request for a*

letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services of a probationary employee shall be made no later than the date probationary employment begins.

- (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165 *and receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
 - (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
 - (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (9) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK **AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES** AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK **AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES** AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
- 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (11) (a) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation *and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (b) The results of the state criminal history background check and the results of the national criminal history background check, if requested, *and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse*

and neglect records maintained by the Cabinet for Health and Family Services shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police *and the Cabinet for Health and Family Services* shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.

- (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.
- (13) *Notwithstanding any law to the contrary, each certified and classified employee of the school district shall notify the superintendent if he or she has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal. Any failure to report this finding shall result in the certified or classified employee being subject to dismissal or termination.*
- (14) *The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 7 of this Act:

- (1) *"Criminal offense against a minor" means a conviction or a plea of guilty to any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:*
 - (a) *Kidnapping, as in KRS 509.040, except by a parent;*
 - (b) *Unlawful imprisonment, as in KRS 509.020, except by a parent;*
 - (c) *Sexual misconduct as in KRS 510.140;*
 - (d) *Use of a minor in a sexual performance, as in KRS 531.310;*
 - (e) *Promoting a sexual performance of a minor, as in KRS 531.320;*
 - (f) *Possession or viewing matter portraying a sexual performance by a minor, as in KRS 531.335;*
 - (g) *Distribution of matter portraying a sexual performance by a minor, as in KRS 531.340;*
 - (h) *Promoting the sale of material portraying a sexual performance by a minor, as in KRS 531.350;*
 - (i) *Advertising material portraying a sexual performance by a minor, as in KRS 531.360;*
 - (j) *Using minors to distribute material portraying a sexual performance by a minor, as in KRS 531.370;*
 - (k) *Human trafficking involving commercial sexual activity, as in KRS 529.100;*
 - (l) *Promoting prostitution, as in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);*
 - (m) *Unlawful transaction with a minor in the first degree, as in KRS 530.064(1)(a);*
 - (n) *Any attempt to commit any of the offenses described in paragraphs (a) to (m) of this subsection; or*
 - (o) *Solicitation to commit any of the offenses described in paragraphs (a) to (m) of this subsection;*
- (2) *"Sex crime" means a conviction or a plea of guilty to any of the following offenses:*
 - (a) *Rape in the first degree as in KRS 510.040;*

- (b) *Rape in the second degree as in KRS 510.050;*
- (c) *Rape in the third degree as in KRS 510.060;*
- (d) *Sodomy in the first degree as in KRS 510.070;*
- (e) *Sodomy in the second degree as in KRS 510.080;*
- (f) *Sodomy in the third degree as in KRS 510.090;*
- (g) *Sodomy in the fourth degree as in KRS 510.100;*
- (h) *Sexual abuse in the first degree as in KRS 510.110;*
- (i) *Sexual abuse in the second degree as in KRS 510.120;*
- (j) *Sexual abuse in the third degree as in KRS 510.130;*
- (k) *Indecent exposure in the first degree as in KRS 510.148;*
- (l) *Indecent exposure in the second degree as in KRS 510.150;*
- (m) *Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities as in KRS 510.155; or*
- (n) *Incest as in KRS 530.020;*
- (3) *"Violent offender" means any person who has been convicted of or who has entered a plea of guilty to the commission of a capital offense, Class A felony, Class B felony involving the death of the victim or serious physical injury to the victim, or rape in the first degree, or sodomy in the first degree; and*
- (4) *"Youth camp" or "camp" means:*
 - (a) *Any camp required pursuant to KRS 211.180 to obtain a permit to operate; and*
 - (b) *Any program offered, whether free or for a fee, for recreational, educational, sports training, or vacation purposes to children under eighteen (18) years of age that a child attends outside the presence of his or her parent or legal guardian.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Sections 4 to 7 of this Act shall not apply to:

- (1) *Public school districts or programs sponsored by the school district;*
- (2) *Private schools;*
- (3) *Child-care centers, child-caring and child-placing agencies; family child-care homes; and foster care, relative caregiver services or adoptive homes otherwise governed by KRS Chapter 199; or*
- (4) *Babysitting or child-care arrangements made by a child's parent or guardian and occurring within a private home.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *A youth camp that receives public funds shall not employ, contract, or utilize as a volunteer, in any position, any person who has been convicted of or who has entered a plea of guilty to a criminal offense against a minor or a sex crime, who is a violent offender, or who has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.*
- (2) *Prior to employing, contracting with, or allowing volunteer work, each youth camp that receives public funds shall obtain from the Justice and Public Safety Cabinet a national and state criminal background check of the applicant, contractor, or volunteer prior to the individual's presence at the camp or involvement in any program of the camp.*
- (3) *Prior to employing, contracting with, or allowing volunteer work, each youth camp that receives public funds shall require applicants to obtain a letter from the Cabinet for Health and Family Services stating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services of the applicant, contractor, or volunteer prior to the individual's presence at the camp or involvement in any program of the camp.*

- (4) *Each application form provided by a youth camp that receives public funds to an applicant or volunteer shall in a prominent place and legible font conspicuously state the following: "STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."*
- (5) *Any request for records under this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.*
- (6) *This section shall apply to all applicants and volunteers in a position which involves supervisory or disciplinary power over a minor.*
- (7) *This section shall not be construed to prohibit an exempted organization from requiring its employees, contractors, or volunteers to submit to a background check. Youth camps that do not receive public funds may require its employees, contractor, or volunteers to submit to a criminal background check and to have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the individual has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.*
- (8) *This section shall not be construed to require a youth camp that receives public funds to employ, contract with, or allow volunteering by, an individual solely on the basis of an acceptable criminal background check.*
- (9) *This section shall not limit the ability of a youth camp that receives public funds to establish a more stringent background check process for its employees, contractors, or volunteers regarding other criminal offenses which, in the discretion of the youth camp that receives public funds, would disqualify the individual from involvement with the youth camp.*
- (10) *The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *Failure to comply with Section 6 of this Act will result in immediate suspension of the entity's permit until compliance is obtained.*
- (2) *If any employee, contractor, or volunteer is discovered to be a violent offender or has been convicted of a sex crime or a criminal offense against a minor, or has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal, he or she shall be immediately terminated from participation with the program and removed from the property.*
- (3) *Any person who owns or operates a youth camp that receives public funds and who knowingly allows an individual to serve or continue to serve as an employee, contractor, or volunteer despite a conviction or offense specified in this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.*

➔Section 8. Sections 2 through 7 of this Act shall take effect July 1, 2018.

Signed by Governor March 27, 2017.

CHAPTER 116

(SB 248)

AN ACT relating to radiation.

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

➔Section 1. KRS 211.862 is amended to read as follows:

As used in KRS 211.861 to 211.869, unless the compact requires otherwise:

- (1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;
- (5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;
- (6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;
- (7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;
- (8) "Naturally-occurring radioactive material" (NORM) means *any of the primordial radionuclides or radioactivity present in soils, rocks, and materials, that are not concentrated or disturbed as a result of human activities*~~[naturally occurring materials not regulated under the Atomic Energy Act of 1954, as amended, whose radionuclide concentrations have been increased by or as a result of human practices. Naturally occurring radioactive material does not include the natural radioactivity of rocks or soils, or background radiation, but instead refers to materials whose radioactivity is technologically enhanced by controllable practices (or by past human practices)]~~;
- (9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;
- (10) "Region" means the geographical area of the state of Illinois and the Commonwealth of Kentucky;
- (11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;
- (12) "Storage" means the temporary holding of radioactive material for treatment or disposal; ~~and~~
- (13) *"Technologically-enhanced naturally-occurring radioactive material" or "TENORM" means:*
 - (a) *Naturally occurring radioactive material with a radionuclide concentration that has been increased by human activities above levels encountered in the natural state; or*
 - (b) *Naturally occurring radioactive material made more accessible by human activity.*

TENORM does not include the natural radioactivity of rocks or soils or source material, byproduct material, or special nuclear material as defined in 42 U.S.C. secs. 2011 et seq. and relevant federal regulations implemented by the Nuclear Regulatory Commission; and
- (14) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

➔Section 2. KRS 211.863 is amended to read as follows:

- (1) Unless otherwise authorized by the commission:
 - (a) After July 15, 1998, no person shall deposit at a facility in Kentucky any low-level radioactive waste not generated within the region.
 - (b) After July 15, 1998, no person shall accept at a facility in Kentucky low-level radioactive waste not generated within the region.

- (c) No person shall deposit at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (d) No person shall accept at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (e) No person shall export from the region low-level radioactive waste that is generated in Kentucky, other than low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (f) No person shall dispose of low-level radioactive waste in Kentucky except at a regional disposal facility.
 - (g) No person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste from outside the region shall dispose of any low-level radioactive waste, regardless of origin, at a facility in Kentucky without prior specific approval by the commission.
- (2) No person shall treat or store low-level radioactive waste at a facility other than a regional facility, if the treatment or storage is prohibited by the commission.
 - (3) ***Technologically-enhanced*** naturally-occurring radioactive material (***TENORM***) ***and naturally-occurring radioactive material*** (NORM) as defined in KRS 211.862~~[(8)]~~ shall be the exclusive regulatory responsibility of the states, except that no person shall import ***technologically-enhanced*** naturally occurring radioactive material (***TENORM***)~~[(NORM)]~~ from outside the region for disposal in Kentucky, ***arrange for disposal of***, or dispose of such imported material in Kentucky, if the imports or disposal are inconsistent with policies of the commission.
 - (4) Any low-level radioactive waste which is not the responsibility of the Commonwealth of Kentucky or the Central Midwest Interstate Low-Level Radioactive Waste Commission pursuant to 42 U.S.C. sec. 2297h-11 shall be exempt from the provisions of KRS 211.861 to 211.869 and from the provisions of KRS 211.859.
 - (5) ***Drill cuttings generated from wells permitted and regulated by the Energy and Environment Cabinet pursuant to KRS Chapter 353 that contain naturally-occurring radioactive materials that have been made more accessible shall not be regulated as TENORM under this chapter.***
 - (6) ***Except as provided in subsection (5) of this section, the cabinet may, by executive order or administrative regulation, regulate as tenorm any naturally occurring radioactive material made more accessible by human activity, or naturally occurring radioactive material that has radionuclide concentrations increased by human activities above levels encountered in the natural state.***

Signed by Governor March 27, 2017.

CHAPTER 117

(SB 249)

AN ACT relating to the Energy and Environment Cabinet.

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

➔Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or

any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.

1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.

4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. ~~Kentucky Environmental Quality Commission.~~
 7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. ~~Kentucky Mining Board.~~
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.

- e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.

- (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information and Research.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. Workers' Compensation Advisory Council.
 - 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.

2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

- (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.

4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.

- 3. Office of Governmental Relations and Tourism Development.
- 4. Office of the Sports Authority.
- 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.

- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 2. KRS 146.090 is amended to read as follows:

- (1) The secretary *of the*~~for~~ Energy and Environment **Cabinet**, with the approval of the Soil and Water Conservation Commission shall divide the state into nine (9) soil and water conservation areas which shall contain as nearly as practicable, an equal number of soil and water conservation districts;
- (2) The Soil and Water Conservation Commission shall consist of nine (9) members, not more than five (5) of whom shall be of the same political party, to be appointed by the secretary *of the*~~for~~ Energy and Environment **Cabinet** with the approval of the Governor;
- (3) One (1) member shall be appointed from each of the areas from a list of two (2) names submitted from each ~~such~~ area by the supervisors of the soil and water conservation districts that have their principal offices therein. All members shall be supervisors of soil and water conservation districts;
- (4) The term of office of each ~~such~~ member shall be four (4) years; provided that, whenever a member of the commission ceases to hold the office of district supervisor by virtue of which he is serving on the commission, his term of office as a member of the commission shall be terminated. In the case of any vacancy other than the one (1) caused by the expiration of a term, the secretary *of the*~~for~~ Energy and Environment **Cabinet**, with the approval of the Governor, shall appoint the successor from a list of two (2) names submitted by the supervisors of the soil and water conservation area which was represented by the former member. The successor shall also be a supervisor of a soil and water conservation district;
- (5) The members of the commission shall designate a chairman from among their members and may from time to time change such designation. The commission shall keep a record of its official actions. A majority of the commission shall constitute a quorum. The commission may call upon the Attorney General ~~for such~~ legal services as it may require. It may delegate to its chairman, any of its members, the director of the division, or any officer, employee, or agent, ~~such~~ powers and duties as it deems proper. Members of the commission shall receive no compensation for their services, but shall be entitled to expenses, including traveling expenses, necessarily incurred in discharging their duties;
- (6) The following persons are advisory members of the commission by virtue of their offices: the secretary *of the*~~for~~ Energy and Environment **Cabinet**, the Commissioner of Agriculture, the director of the agricultural experiment station, the director of vocational education, and the state conservationist of the United States Department of Agriculture.

➔Section 3. KRS 146.100 is amended to read as follows:

- (1) The secretary *of the*~~for~~ Energy and Environment **Cabinet**, with the approval of the Soil and Water Conservation Commission shall appoint a director of the Division of Conservation ~~who shall be a graduate of a recognized agricultural college, with at least five (5) years practical experience in professional agricultural activities and who shall serve as executive officer for the commission. The director shall serve at the will of, and receive such compensation as may be determined by the secretary of the~~ Energy and Environment **Cabinet** with the *advice*~~approval~~ of the Soil and Water Conservation Commission. ~~Before entering upon his duties, the director shall take the constitutional oath. The director shall hold no other public office or employment.~~ In addition to any other duties assigned to him *or her* by the secretary *of the*~~for~~ Energy and Environment **Cabinet**, the director shall exercise, subject to the approval of the secretary, general administrative supervision over all activities, employees and property of the commission;
- (2) The secretary *of the*~~for~~ Energy and Environment **Cabinet** may employ ~~such~~ other officers, employees, and agents, who shall serve at his *or her* will as he *or she* deems necessary, with the *advice*~~approval~~ of the Soil and Water Conservation Commission, and shall provide for surety bonds for members, the director, officers, employees or agents if entrusted with funds or property.

➔Section 4. KRS 146.110 is amended to read as follows:

- (1) The commission shall have the general power to take any action it may consider necessary or proper to assist soil and water conservation districts, agricultural districts, or watershed conservancy districts in carrying out their functions, powers, duties, and programs in accordance with the provisions of KRS Chapter 262, and for such purpose it may furnish financial and other aid to the districts and perform such services for them at their request as may be possible under available appropriations and resources;
- (2) The commission has all the powers and duties formerly possessed by the State Soil Conservation Committee;
- (3) The commission shall take any action it may consider necessary or proper in order to discharge for the state any of the state's functions, responsibilities, or duties relating to flood control, drainage, and other activities with respect to the conservation, utilization, or control of soil or water resources;
- (4) The commission may *request the Secretary of the Energy and Environment Cabinet to* promulgate those administrative regulations as may be necessary to the performance of its duties and may enter into and execute any agreements or legal instruments that may be necessary for these purposes, and *the commission*~~it~~ shall have the authority to acquire necessary supplies, materials, and equipment, and warehousing, servicing, and maintenance facilities for equipment.

➔Section 5. KRS 146.210 is amended to read as follows:

As used in KRS 146.210 to 146.360, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

- (1) "Stream or watercourse" shall mean a flowing body of water or a section or portion thereof, including rivers, streams, and creeks.
- (2) "Free flowing" shall mean existing or flowing in a natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any stream is proposed for inclusion in the Wild Rivers System shall not automatically bar its consideration for such inclusion; provided, that this shall not be construed to authorize or to be intended to encourage future construction of such structures within components of the Wild Rivers System.
- (3) "Road" shall mean a highway, a hard-surfaced road, or an improved or unimproved dirt road. The existence, however, of unimproved roads at the time any stream is proposed for inclusion in the Wild Rivers System shall not automatically bar its consideration for such inclusion; provided, that this shall not be construed to authorize or to be intended to encourage future construction of such roads where this would be contrary to the provisions of KRS 146.200 to 146.360.
- (4) "Wilderness type recreation" shall mean activities such as fishing, hunting, canoeing, camping, hiking, horseback riding, exploring, archaeological and scientific investigation, and scenic and aesthetic enjoyment, which utilizes and protects to the highest degree the primitive and natural values of the area.
- (5) "Visual horizon" shall mean the normal distance to which land and vegetative features can be unobstructedly viewed from the center of the stream.
- (6) "Access point" shall mean an area along the stream under public ownership, or under easement acquired by agreement with a private landowner. This area would be available for public recreational use including, but not limited to, the launching of boats, picnicking, and camping.
- (7) "Secretary" shall mean the secretary *of the*~~for~~ Energy and Environment *Cabinet* or the successor to that office.

➔Section 6. KRS 146.270 is amended to read as follows:

The Wild Rivers System shall be administered by the Energy and Environment Cabinet according to the policies and criteria set forth in KRS 146.200 to 146.360. The secretary ~~for energy and environment~~ shall adopt ~~such~~ *promulgate administrative* regulations necessary for the preservation and enhancement of the stream areas as set forth in KRS 146.250, and for control of recreational, educational, scientific, and other uses of these areas in a manner that shall not impair them. In ~~such~~ administration primary emphasis shall be given to protecting aesthetic, scenic, historic, archaeologic, and scientific features of the area. The secretary shall develop a management plan for a designated stream area and shall publicize and hold public hearings and record the views expressed on each plan developed. Management plans for a given stream area may establish varying degrees of intensity for its protection, based on special attributes of each area, but shall follow the concepts embodied in KRS 146.230. No public use of lands within the boundaries of a designated wild river area in which the state has acquired an interest shall be permitted prior to the development of a management plan. Any ~~such~~ management plan shall be developed jointly

with the Department of Fish and Wildlife Resources with respect to those aspects of ~~the~~~~such~~ plan as relate to the jurisdiction of that department over fish and wildlife resources.

➔Section 7. KRS 146.280 is amended to read as follows:

- (1) Within the boundaries of a designated stream area, as established and authorized by the Kentucky General Assembly, the secretary ~~shall be~~~~for energy and environment is~~ authorized and empowered to acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title, an easement, or any acceptable lesser interest in any lands, and by lease or conveyance, contract for the right to use and occupy any lands. Where property within such boundaries is owned by the federal government, the secretary can enter into agreements with the landowning agency concerning use of the property consistent with the objectives of KRS 146.200 to 146.360. Nothing in KRS 146.200 to 146.360 shall be construed to deprive a landowner of the fee simple title to or lesser interest in his property without just compensation.
- (2) The secretary ~~for energy and environment~~ may not exercise authority to acquire lands or interests in lands located within any incorporated city, village, or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands in accordance with the provisions of KRS 146.200 to 146.360.

➔Section 8. KRS 146.320 is amended to read as follows:

Nothing in KRS 146.200 to 146.360 shall preclude a component of the Wild Rivers System from becoming a part of the National Wild and Scenic Rivers System. The secretary ~~shall be~~~~for energy and environment is~~ directed to encourage and assist any federal studies for inclusion of Kentucky streams in the National Wild and Scenic Rivers System. The secretary ~~for energy and environment~~ may enter into written cooperative agreements for joint federal-state or interstate administration of a Kentucky component of the National Wild and Scenic Rivers System, provided ~~such~~ agreements for the administration of water and land uses are not less restrictive than those set forth in KRS 146.200 to 146.360.

➔Section 9. KRS 146.330 is amended to read as follows:

The secretary ~~for energy and environment~~ may employ such technical, clerical, stenographic and other employees and assistants as are required to effectively carry out his duties and responsibilities as provided in KRS 146.200 to 146.360.

➔Section 10. KRS 146.415 is amended to read as follows:

As used in KRS 146.410 to 146.530:

- (1) "Natural area" means any area of land or water, or of both land and water, in public or private ownership, which either retains, or has reestablished to some degree in the judgment of the commission its natural character, though it need not be completely natural and undisturbed, or which has natural flora, fauna, biological, ecological, geological, scenic or archaeological features of scientific, aesthetic, cultural or educational interest;
- (2) "Nature preserve" means a natural area, and land necessary for its protection, any estate, interest or right in which has been formally dedicated under the provisions of KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural condition and to be used in a manner and under limitations consistent with its continued preservation, without impairment, disturbance or artificial development, for the public purposes of present and future scientific research, education, aesthetic enjoyment and habitat for plant and animal species and other natural objects;
- (3) "Articles of dedication" means the writing by which any estate, interest or right in a natural area is formally dedicated, as provided in KRS 146.410 to 146.530;
- (4) "Commission" means the Kentucky State Nature Preserves Commission;
- (5) "System" means the state system of nature preserves established under KRS 146.410 to 146.530;
- (6) "Cabinet" means the Energy and Environment Cabinet; ~~and~~
- (7) "Director" means the director of the Kentucky State Nature Preserves Commission; **and**
- (8) **"Secretary" means the secretary of the Energy and Environment Cabinet.**

➔Section 11. KRS 146.430 is amended to read as follows:

- (1) In order to effectuate and administer KRS 146.410 to 146.530, the ~~secretary~~~~[commission]~~ may **appoint**~~[hire]~~ a full-time director, **with the approval of the commission**, who shall be qualified by training and experience to perform the duties of this office and carry out the purpose of KRS 146.410 to 146.530, and who shall hold office at the pleasure of the ~~secretary~~~~[commission]~~. The salary of the director shall be determined by the ~~secretary~~~~[commission]~~. The ~~secretary~~~~[director]~~ shall, upon the advice and consent of the commission, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of KRS 146.410 to 146.530.
- (2) The director shall, upon the advice and consent of the commission **and the secretary**, provide for the allocation of the work and activities of all employees of the commission.

➔Section 12. KRS 146.485 is amended to read as follows:

In furtherance of the purposes of KRS 146.410 to 146.530, the commission shall have the following additional powers and duties:

- (1) To seek and approve the dedication of nature preserves as part of the system;
- (2) To make and publish policies~~[,]~~ **and** rules, and **to recommend to the secretary the promulgation of administrative** regulations for the selection, acquisition, management, protection, and use of natural areas and nature preserves, and for the conduct of commission affairs;
- (3) To cooperate with and to contract with any public body of this state, any public body of any other state, any private organization, any individual, and the federal government and its agencies;
- (4) To purchase land from a willing seller without the use of the powers of condemnation or eminent domain, which said powers are expressly denied to the commission;
- (5) To make reasonable investigations as to the ownership of any lands which it judges may be appropriate for acquisition;
- (6) To maintain a state registry of natural areas, an inventory of natural types, flora, and fauna, and other records of natural areas and nature preserves within the Commonwealth;
- (7) To promote the coordination of all departments, divisions and branches of state, county and city governments within the Commonwealth which relate to nature preserves;
- (8) To study the operation of all laws, rules, regulations, orders, and governmental policies affecting conservation of natural resources pertaining to natural areas, and to recommend to the Governor, and to the General Assembly, new legislation, rules, regulations, orders and policies in the interest of correcting natural resource conservation problems pertaining to natural areas and nature preserves;
- (9) To provide a central clearing house of information for environmental and conservation matters and to promote educational programs pertaining to natural areas and nature preserves;
- (10) To conduct research, investigations, public hearings, and interpretative programs and to publish and disseminate information to the general public pertaining to natural areas and nature preserves;
- (11) To supervise the protection, management, and use of nature preserves and to enforce and administer rules and regulations pertaining thereto;
- (12) To promote, study, investigate, recommend, encourage, advise and assist in the preservation, protection, and management of natural areas;
- (13) To report to the Governor and General Assembly on proposed legislation, policies, regulations, or actions, public or private, which may significantly affect the quality of the natural ecology or the human environment in the Commonwealth. Such report shall include an evaluation of environmental and ecological effects, and shall compare any adverse effects of the proposed action against possible social benefits. The report shall describe and recommend appropriate alternatives, which avoid significant adverse effects on the quality of the natural ecology of natural areas;
- (14) To submit to the Governor and members of the General Assembly, a report on or before January 15, 1977, and by the same date each second year thereafter, detailing the condition of each nature preserve in the system, and each registered natural area, and make ~~[such]~~ other reports and recommendations as it may deem advisable.

➔Section 13. KRS 147A.031 is amended to read as follows:

- (1) The Department for Local Government, in cooperation with cities, counties, waste management districts, waste industries, *and* the Energy and Environment Cabinet, ~~and the Environmental Quality Commission,~~ shall develop procedures designed to resolve conflicts resulting from municipal solid waste management facility siting and operation. The procedures shall address:
 - (a) Resolution of conflicts associated with multijurisdictional municipal solid waste management facilities, including the use of such techniques as negotiation, mediation, or arbitration to address issues, including but not limited to host community compensation and collection and disposal fees; and
 - (b) Resolution of issues, except those relating to permit conditions imposed by the cabinet, resulting from municipal solid waste management facility siting and operation, including the use of such techniques as negotiation, mediation, or arbitration to address concerns of those persons and landowners who are directly affected by the facility's location and operation. Issues which may be addressed include but are not limited to the following:
 1. Operational issues, such as hours of operation;
 2. Recycling and composting efforts that may be implemented;
 3. Protection of property values;
 4. Traffic routing and road maintenance; and
 5. Establishment of local advisory committees.
- (2) The Department for Local Government shall adopt administrative regulations to implement the provisions of subsection (1) of this section.
- (3) Nothing in this section shall be construed to abridge any rights or remedies provided by KRS Chapters 109 and 224, or at common law.

➔Section 14. KRS 151.293 is amended to read as follows:

- (1) Within sixty (60) days of completion of an on-site inspection of an existing dam, the cabinet may either grant a certificate of inspection, or deny the certificate of inspection and notify the owner in writing, stating the reasons for denial.
- (2) In deciding whether or not a certificate of inspection should be issued, the cabinet shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:
 - (a) The proposed action in the judgment of the cabinet will be conducted in such a way that the safety of the public is adequately provided for;
 - (b) All information requested by the cabinet has been provided; and
 - (c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.
- (3) In granting a certificate of inspection, the cabinet may impose such conditions relating to the inspection, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.
- (4) The cabinet may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories. The hazard categories in all cases shall be based only on the actual risk imposed by the dam.
- (5) The cabinet may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.
- (6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the cabinet and stated on the certificate. In determining the period of inspection, the cabinet may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.
- (7) The cabinet may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the cabinet of a revised certificate, except when the

cabinet finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the cabinet, the new conditions shall be effective immediately.

- (8) Specific guidelines for issuance and renewal of certificate of inspection for earth embankment dams shall be provided by administrative regulations which shall address at least the following areas:
 - (a) The hydraulic capacity requirements for each category of dam shall be provided. The probable maximum precipitation as determined by the United States Weather Service shall be used only where it can be clearly demonstrated that failure of the dam by overtopping would result in greater loss of life than would occur if the dam did not exist and only for small watersheds, since such large rainfall events are not expected to occur over large areas. The cabinet shall provide a table of factors that reduce this rainfall appropriately for larger watersheds;
 - (b) Minimum criteria for the embankment stability of the dam, including consideration of such factors as steepness of slopes, strength of materials, and earthquake loadings shall be specified;
 - (c) Variance procedures for applicable hydraulic and stability considerations shall be included for, but not limited to, variances to hydraulic criteria where only a small number of persons are at risk and where a reliable, effective emergency preparedness system will be installed; where a risk analysis demonstrates that at rainfall levels less than that specified in the administrative regulation there is no risk that actually results from the dam; where an owner can demonstrate that the dam substantially conforms to the criteria in the administrative regulation; and, for dams that pose a risk of economic damages only, where the owner provides indemnification against potential damages;
 - (d) Before any variance is issued, the affected public shall be notified of the cabinet's intended action and allowed to make known any objections or concerns that it might have;
 - (e) Whenever the owner of a dam has requested a variance and the request has not been granted or has not been granted in the manner requested, the owner or aggrieved party may petition the cabinet to have the variance request **reviewed and a final determination made by the cabinet**~~and the cabinet's preliminary decision on it reviewed by an unbiased, three (3) person panel of qualified experts to be named by the Environmental Quality Commission in consultation with the Kentucky Water Research Institute. The panel shall make nonbinding recommendations to the cabinet with regard to these matters. After reviewing the recommendations, the cabinet will make a final determination on the variance~~. If not satisfied by the **final determination of the cabinet**~~finding of the panel or the determination of the cabinet~~, the party may seek administrative remedy from the cabinet under the provisions of KRS 151.182;
 - (f) Items of general maintenance of a dam shall include provisions for at least the following: dams shall be mowed regularly; dams shall be free of trees and brush; animal burrows shall not be allowed on dams; slides, erosion and cracks that could pose problems to dams shall be properly repaired; action shall be taken to alleviate excessive wetness and abnormal seepage; appurtenances that are necessary for the proper operation and maintenance of the dam shall be kept in proper working condition;
 - (g) Provisions shall be made whereby the cabinet will allow for staged renovation of dams that do not meet the criteria of the administrative regulations and shall clearly identify the circumstances under which staging is allowable and set a maximum time limit that may be allowed for bringing the dam into compliance. Other provisions shall require the owner to develop and maintain an emergency action plan, to provide interim insurance, bonding or other indemnification, and on a frequent basis as specified by the cabinet, to inspect the dam and report to the cabinet the status of any facilities or conditions of concern; and
 - (h) If the cabinet has previously required a dam to be upgraded to meet a certain dam safety standard, it shall not require that the dam be upgraded again because of a change in the administrative regulation with regard to that same standard. However, if the owner proposes substantial construction on the dam or if the dam must be repaired due to indications of distress or to partial failure, the cabinet may require the owner to bring the dam into full compliance with current standards.
- (9) The cabinet shall establish guidelines on a case-by-case basis for gravity dams and other types of dams that are unusual to the Commonwealth, and shall follow recognized engineering practice.
- (10) Plans and specifications submitted to the cabinet shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the cabinet.

➔Section 15. KRS 152.713 is amended to read as follows:

- (1) For purposes of this section, "renewable energy" has the same meaning as in KRS 154.20-400.
- (2) The Center for Renewable Energy Research and Environmental Stewardship is hereby created~~[- and attached to the Energy and Environment Cabinet for administrative purposes. The Energy and Environment Cabinet shall provide consultation, coordination services, technical assistance, and staff support to the board of directors created in subsection (4) of this section, on an as needed basis, and perform other necessary administrative functions until the center is deemed fully operational. The secretary of the cabinet or his or her designee shall coordinate the development of the center and act as the chair of the board of directors created in subsection (4) of this section until the board is established and is operational].~~
- (3) The Center for Renewable Energy Research and Environmental Stewardship shall:
 - (a) Provide leadership, research, support, and policy development in renewable energy;
 - (b) Advance the goal of renewable energy;
 - (c) Promote technologies, practices, and programs that increase efficiency in energy utilization in homes, businesses, and public buildings;
 - (d) Emphasize energy policies that would result in cost-conscious, responsible development of Kentucky's energy resources and a commitment to environmental quality;
 - (e) Promote partnerships among the state's postsecondary education institutions, private industry, and nonprofit organizations to actively pursue federal research and development resources that are dedicated to renewable energy;
 - (f) Promote the continued development of public-private partnerships dedicated to promoting energy efficiency through education and outreach;
 - (g) Establish research priorities with approval of the board of directors created in subsection (4) of this section, relating to renewable energy, and develop procedures and processes for awarding research grants to eligible recipients as defined by the board and to the extent that funding is available;
 - (h) Collaborate with the Department for Energy Development and Independence to avoid duplication of efforts, provide appropriate data and information, and support the implementation of Kentucky's comprehensive energy strategy; and
 - (i) Carry out other activities to further the efficient and environmentally responsible use of renewable energy.
- (4)
 - (a) There is hereby created a governing board of directors to provide policy direction, establish a strategic research agenda and operating policies, and provide financial and operational oversight for the Center for Renewable Energy Research and Environmental Stewardship. The initial board shall be appointed within sixty (60) days following July 15, 2008.
 - (b) The board shall consist of thirteen (13) members:
 1. One (1) member to represent the Department for Energy Development and Independence as designated by its commissioner;
 2. Three (3) members representing postsecondary education interests who shall be appointed by the Governor;
 3. One (1) member to be designated by the governing body of the Kentucky Science and Technology Corporation;
 4. One (1) member from an energy conservation organization who shall be appointed by the Governor;
 5. The secretary of the Economic Development Cabinet or the secretary's designee;
 6. One (1) member who shall be a recognized consumer advocate to be appointed by the Governor;
 7. Three (3) members to represent companies that are focused on renewable energy who shall be appointed by the Governor;
 8. One (1) member who shall represent environmental interests to be appointed by the Governor; and

9. One (1) member who shall be selected to represent local government interests to be appointed by the Governor.
- (c) The members appointed by the Governor shall serve two (2) year terms and may be reappointed. The members representing specific agencies shall serve for as long as the respective agencies determine appropriate.
- (5) The board shall:
 - (a) Adopt operating procedures, including a meeting schedule;
 - (b) Meet at least quarterly;
 - (c) Select a chair and co-chair annually who may be reelected, not to exceed three (3) consecutive terms;
 - (d) Establish working groups or subcommittees of the board as the board determines is needed;
 - (e) Establish qualifications and job descriptions, set the compensation and benefits, and employ staff as it determines necessary to carry out its responsibilities under this section; and
 - (f) Provide an annual program and financial report to the Legislative Research Commission within ninety (90) days of the close of each fiscal year.

➔Section 16. KRS 154.47-005 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

- (1) "Approved network" means a flexible manufacturing network approved by the cabinet in accordance with KRS 154.47-040;
- (2) "Cabinet" means the Cabinet for Economic Development;
- (3) "Center" means the Quicksand Wood Utilization Center located in Breathitt County, Kentucky;
- (4) "Certified tree farmer" means a person whose tree farm is certified by the Kentucky Tree Farm Committee and approved by the American Forest Foundation;
- (5) ~~["Council" means the Kentucky Forest Products Council as created in KRS 154.47-110;~~
- ~~(6) ["Flexible manufacturing network" or "network" means an affiliation of secondary wood products businesses as provided by KRS 154.47-040;~~
- ~~(6) [(7)]~~ "Forest steward" means a person whose forest property is certified as a stewardship forest and approved by the Division of Forestry of the Department for Natural Resources;
- ~~(7) [(8)]~~ "Procurement area" means an area specified by the applicant in a radius of miles from the applicant's site of operations from which the applicant acquires raw wood products;
- ~~(8) [(9)]~~ "Secondary wood products industry" means businesses that compose that segment of the forest products industry that manufacture, assemble, process, or produce wood into a finished or semifinished product; however, the "secondary wood products industry" does not include primary wood products operations such as logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that include both primary and secondary wood products operations are deemed to be within the secondary wood products industry only in regard to their secondary wood products operations; and
- ~~(9) [(10)]~~ "Wood industry hub" or "hub" means a system in which the technical and workforce training needs of the secondary wood products industry are integrated.

➔Section 17. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.1-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005~~(8) [(9)]~~, shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of

unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education and Workforce Development Cabinet.

➔Section 18. KRS 224.10-022 is amended to read as follows:

There is established in the Office of the Secretary an Office of Administrative Hearings and an Office of Legislative and Intergovernmental Affairs. Each of these offices shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. There is also established in the Office of the Secretary an Office of General Counsel, headed by a general counsel appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The executive directors and the general counsel shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. ~~[- The Environmental Quality Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor, shall be attached to the Office of the Secretary.]~~ The Kentucky State Nature Preserves Commission, which shall be headed by a director, and the Mine Safety Review Commission, whose members shall be appointed by the Governor with the consent of the General Assembly, shall be attached to the Office of the Secretary. The Kentucky Public Service Commission, which shall be headed by an executive director appointed by the commission in accordance with KRS 278.100, shall be attached to the Office of the Secretary for administrative purposes.

➔Section 19. KRS 224.1-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) ~~["Commission" means the Environmental Quality Commission;~~
- ~~(6) —~~ "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- ~~(6)(7)~~ "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- ~~(7)(8)~~ "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

- (8)~~(9)~~ "Cabinet" means the Energy and Environment Cabinet;
- (9)~~(10)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (10)~~(11)~~ "District" means an air pollution control district as provided for in KRS Chapter 77;
- (11)~~(12)~~ "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (12)~~(13)~~ "Generator" means any person, by site, whose act or process produces waste;
- (13)~~(14)~~ "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (14)~~(15)~~ "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (15)~~(16)~~ "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (16)~~(17)~~ "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (17)~~(18)~~ "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (18)~~(19)~~ "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (19)~~(20)~~ "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis. Notwithstanding any provision of law to the contrary, tire-derived fuel, as defined in subsection (54) of this section, shall be considered a recovered material;
- (20)~~(21)~~ "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (21)~~(22)~~ "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

- (22)~~(23)~~ "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (23)~~(24)~~ "Secretary" means the secretary of the Energy and Environment Cabinet;
- (24)~~(25)~~ "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (25)~~(26)~~ "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (26)~~(27)~~ "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (27)~~(28)~~ "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (28)~~(29)~~ "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (29)~~(30)~~ "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (30)~~(31)~~ "Waste" means:
- (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, tire-derived fuel, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
 1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds, but it does not include tire-derived fuel;
 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding tire-derived fuel and household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products, except tire-derived fuel; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and
- (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- ~~(31)(32)~~ "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- ~~(32)(33)~~ "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- ~~(33)(34)~~ "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- ~~(34)(35)~~ "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- ~~(35)(36)~~ "NPDES" means National Pollutant Discharge Elimination System;
- ~~(36)(37)~~ "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- ~~(37)(38)~~ "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- ~~(38)(39)~~ "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- ~~(39)(40)~~ "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- ~~(40)(41)~~ "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- ~~(41)(42)~~ "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- ~~(42)(43)~~ "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- ~~(43)(44)~~ "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

- ~~(44)~~~~(45)~~ "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- ~~(45)~~~~(46)~~ "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- ~~(46)~~~~(47)~~ "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- ~~(47)~~~~(48)~~ "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- ~~(48)~~~~(49)~~ "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- ~~(49)~~~~(50)~~ "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- ~~(50)~~~~(51)~~ "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- ~~(51)~~~~(52)~~ "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material;
- ~~(52)~~~~(53)~~ "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper;
- ~~(53)~~~~(54)~~ "Tire-derived fuel" or "TDF" means a product made from waste tires to the exact specifications of a system designed to accept tire-derived fuel as a primary or supplemental fuel source, that have been reduced to particle sizes not greater than two (2) inches by two (2) inches and that is destined for transportation from the waste tire processor for use as a fuel. "Tire-derived fuel" shall not mean refuse-derived fuel; and
- ~~(54)~~~~(55)~~ "Industrial energy facility" means a facility that produces transportation fuels, synthetic natural gas, chemicals, or electricity through a gasification process using coal, coal waste, or biomass resources, and costing in excess of seven hundred fifty million dollars (\$750,000,000) at the time of construction.

➔Section 20. KRS 224.70-120 is amended to read as follows:

- (1) As used in this section, "cabinet" shall mean the Energy and Environment Cabinet.
- (2) An applicant for a permit to discharge pollutants into waters of the Commonwealth shall be subject to a **permit** ~~filing~~ fee by the cabinet ~~in the amount of twenty percent (20%) of the discharge permit fee~~.
- (3) ~~An applicant for a permit to discharge pollutants into waters of the Commonwealth shall be subject to a discharge permit fee by the cabinet upon receiving the cabinet's determination that the permit will be issued and~~ The **permit** fee shall be equal to the cost of review but shall not exceed the following amounts:
 - (a) Major industry: three thousand two hundred dollars (\$3,200);
 - (b) Minor industry: two thousand one hundred dollars (\$2,100);
 - (c) Nonprocess industry: one thousand dollars (\$1,000);
 - (d) Large, non-publicly-owned treatment works: one thousand seven hundred dollars (\$1,700);
 - (e) Intermediate, non-publicly-owned treatment works: one thousand five hundred dollars (\$1,500);
 - (f) Small, non-publicly-owned treatment works: one thousand dollars (\$1,000);
 - (g) Agriculture: one thousand two hundred dollars (\$1,200); and
 - (h) Surface mining operation: one thousand two hundred dollars (\$1,200).
- (4) The cabinet may impose the maximum **permit** fee if a discharge falls into multiple categories.

➔Section 21. KRS 189.450 is amended to read as follows:

- (1) No person shall stop a vehicle, leave it standing, or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:
 - (a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;
 - (b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation, or sign or the command of any peace officer;
 - (c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom; provided, that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions;
 - (d) Vehicles which are stopped for a period of not more than fifteen (15) minutes at a time for the purpose of collecting and transporting solid waste as defined in KRS 224.1-010(30)~~((31))~~(a), and which are operated by a:
 1. Collection service registered in accordance with KRS 224.43-315; or
 2. Person or organization actively participating in the Adopt-a-Highway Program; or
 - (e) Any vehicle required to stop by reason of an obstruction to its progress.
- (2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number, or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.
- (3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped, or allowed to stand on the shoulders of any state-maintained highway, except that, in the case of emergency or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.
- (4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.
- (5) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:
 - (a) On a sidewalk;
 - (b) In front of sidewalk ramps provided for persons with disabilities;

- (c) In front of a public or private driveway;
 - (d) Within an intersection or on a crosswalk;
 - (e) At any place where official signs prohibit stopping or parking;
 - (f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
 - (g) On any controlled access highway;
 - (h) Within a highway tunnel;
 - (i) Within fifteen (15) feet of a fire hydrant; or
 - (j) In an area between the roadways of a divided highway.
- (6) No person shall move a vehicle not lawfully under his control into any such prohibited area.
- (7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

➔Section 22. KRS 224.40-315 is amended to read as follows:

- (1) No permit to construct or expand a municipal solid waste disposal facility shall be accepted for processing by the cabinet unless the application contains a determination from the governing body for the solid waste management area in which the facility is or will be located concerning the consistency of the application with the area solid waste management plan submitted under KRS 224.43-345(1)(a) to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The governing body for the area shall, within sixty (60) days of receipt of a written request, make the determination after public notice and opportunity for public comment and public hearing. For applications with a notice of intent filed prior to February 26, 1991, the cabinet shall continue to process the application but no permit shall be approved until the governing body for the solid waste management area in which the facility is or will be located has made a determination in accordance with this section.
- (2) No permit to construct or expand a municipal solid waste disposal facility shall be approved unless the applicant affirmatively demonstrates and the cabinet makes a written finding in the preliminary determination made pursuant to KRS 224.40-310(2) that the application conforms to and is consistent with all of the following:
 - (a) The capacity needs identified in the area solid waste management plan;
 - (b) Other elements of the area solid waste management plan, for permit applications filed after approval of those elements;
 - (c) The statewide solid waste reduction and management plan, for permit applications filed after completion of the plan; and
 - (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.
- (3) If the cabinet approves a permit to construct or expand a municipal solid waste management facility after the governing body for the area has determined the application to be inconsistent with the area solid waste management plan, as part of the written finding the cabinet shall state in detail the reasons why it did not accept the determination of the governing body for the area.
- (4) For the purposes of this section, the term municipal solid waste disposal facility includes, in addition to those facilities defined in KRS 224.1-010(14)~~(15)~~, any residual or contained landfill or incinerator disposing of industrial solid waste for a fee, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary.

➔Section 23. KRS 224.50-760 is amended to read as follows:

- (1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), wastes from coal gasification facilities (vitrified coarse solid residues, prilled or blocked sulfur) approved by the cabinet based on submittal of appropriate testing demonstrating that the wastes are of low hazard, sludge from water treatment facilities and wastewater treatment facilities,

cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

- (b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810 ~~and~~ 224.43-815, ~~and KRS 224.46-820 to 224.46-870~~ but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);
 - (c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;
 - (d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.1-010(30)(31)(a) and 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government; and
 - (e) It is the intent of the General Assembly that the processing of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, consider the treatment of this sludge by composting as an industrial process. The provisions of this paragraph and subsection (3) of this section shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65, or to a public or private college or university that processes its own water treatment or wastewater treatment sludge by composting on property owned or leased by the city, county, urban-county government, charter county government, special district, or public or private college or university.
- (2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto.
 - (3) A permit application to establish, operate, or modify a composting site or composting facility for the processing of water treatment sludge or wastewater treatment sludge, shall require immediately the general public notice provided for in KRS 224.40-310(4) and (5). If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process.

➔Section 24. KRS 224.50-856 is amended to read as follows:

- (1) No person shall engage in disposal of waste tires in Kentucky except by transfer to a permitted solid waste disposal facility and except as follows:
 - (a) 1. If transferred to a contained landfill, the waste tires shall be processed to prevent the entrapment of air or water;
 - 2. If transferred to a residual landfill, the waste tires shall be rendered suitable for disposal in a landfill and the landfill shall accept only waste tires for disposal; or
 - 3. If transferred to an incinerator or to any facility for use as a fuel, the incinerator or other facility shall be permitted in accordance with KRS 224.20-110 and 224.40-310 to allow the burning of waste tires and shall have received a local determination related to the waste tires in accordance with KRS 224.40-315(1); and

- (b) Facilities proposing to use tire-derived fuel, as that term is defined in KRS 224.1-010(53)~~[(54)]~~, as a fuel or for other energy recovery, shall not be required to receive a local determination related to the tire-derived fuel use under KRS 224.40-315(1). The Division of Air Quality shall provide for public notice and an opportunity for comment on any application seeking approval for use of tire-derived fuel.
- (2) No person shall accumulate more than twenty-five (25) waste tires in Kentucky at a time for processing, by baling, chopping, recycling, shredding, or other means of changing their shape, size, or chemical content without meeting the requirements of the waste tire program. For processing which had been approved by the cabinet before July 15, 1998, the person who had received the approval shall register within forty-five (45) days of July 15, 1998.
- (3) No person shall transport more than fifty (50) waste tires in Kentucky at a time, either in one (1) vehicle or more than one (1) vehicle managed by or operated under contract with that person, without meeting the requirements of the waste tire program, unless transported in accordance with subsection (5) of this section.
- (4) No person shall accumulate more than one hundred (100) waste tires in Kentucky at a time without meeting the requirements of the waste tire program, unless exempted by KRS 224.50-854 or accumulated in accordance with subsection (5) or (6) of this section. For accumulations of more than one hundred (100) tires not accumulated in accordance with subsection (5) or (6) of this section and existing on July 15, 1998, the person who has accumulated the tires shall register within forty-five (45) days of July 15, 1998.
- (5) A person making retail sales of new motor vehicle tires in Kentucky may accumulate up to one thousand (1,000) waste tires at the place where retail sales are made without registering as an accumulator as required by KRS 224.50-858, if the waste tires are stored in accordance with the requirements of KRS 224.50-860(3), (5), (6), (7), and (8), and stored on-site in a building, in an adjacent covered area, or closed container where public access is prohibited after business hours. The retailer may transport the waste tires it accumulates at the place where retail sales are made without registering as a transporter as required by KRS 224.50-858 if the waste tires will remain in the retailer's possession until they reach their destination.
- (6) An automotive recycling dealer in Kentucky who is licensed by the Transportation Cabinet pursuant to KRS 190.010 to 190.080 may accumulate up to one thousand (1,000) waste tires at the place where automotive recycling is done without registering as an accumulator as required by KRS 224.50-858 if the waste tires are stored in accordance with KRS 224.50-860(2) to (11) and stored on-site in a building, in an adjacent covered area, or closed container where public access is prohibited after business hours.

➔Section 25. KRS 224.73-110 is amended to read as follows:

- (1) The Kentucky Board of Certification of Wastewater System Operators is established. The board shall recommend qualified applicants to the cabinet for certification and perform ~~such~~ other acts as may be necessary to carry out the purposes of this section. Members of the board shall be appointed by the Governor. The board shall consist of eight (8) members who may have professional backgrounds as follows: one (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to wastewater treatment; one (1) nonvoting ex officio member representing the cabinet; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The cabinet's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.
- (2) No person shall have primary responsibility for the operation of any sewage system or portion thereof whether publicly or privately owned unless:
 - (a) ***The person~~he~~*** has passed an examination prescribed by the Energy and Environment Cabinet and board which shall determine ***the person's~~his~~*** skill and competency for ***the~~such~~*** operation and has been issued a certificate to that effect by the cabinet; ***or***
 - (b) ***The person is operating a sewage system located at the residence where the person lives and the sewage system serves only one (1) residence.***

- (3) No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection (2) of this section to have primary responsibility for the operation of any sewage system or portion thereof.
- (4) The cabinet, with the advice of the board of certification, may classify all sewage systems and portions thereof in the manner provided by the rules and regulations of the cabinet with regard to size, type, physical conditions affecting such systems or portions thereof, and the skill, knowledge and experience required for the operation of the system or portion thereof and restrict the application of any certificate issued pursuant to subsection (2) of this section to the operation of a sewage system or portion thereof of a specific class.
- (5) Any person who has primary responsibility for the operation of a sewage system for a school shall be entitled to a limited certificate of competency for his particular system, provided he has demonstrated that he has the knowledge and experience required to operate properly the particular sewage system for which he is responsible. A limited certificate of competency so issued is not transferable to any other sewage system, nor is the period of operation under such a limited certificate eligible for consideration toward the experience requirements for a certificate of competency as provided in subsection (2) of this section.
- (6) All applicants for the examination and certification for the operation of any sewage system or portion thereof, whether publicly or privately owned, shall pay a reasonable schedule of fees and charges fixed by regulation. The fees required under this section shall be payable to the cabinet.
- (7) Operators shall have accumulated a minimum number of hours of appropriate board approved training set by regulation for certificate renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours accumulated in any given year in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years.
- (8) The board may waive any or all of the requirements of subsection (7) of this section for all or portions of an established class of operators.

➔Section 26. KRS 224.80-100 is amended to read as follows:

As used in this subchapter:

- (1) "Activity and use limitations" means restrictions or obligations created under KRS 224.80-100 to 224.80-210.
- (2) "Applicant" means a person applying to the cabinet for approval of an environmental covenant.
- (3) "Cabinet" means the Energy and Environment Cabinet.
- (4) "Common interest community" means a condominium, cooperative, or other real property owned by a person as part of a parcel of real property for which there is an obligation to pay property taxes, insurance premiums, or maintenance, or to make improvements to the real property as described and established in a recorded environmental covenant.
- (5) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations.
- (6) "Environmental response project" means a plan or work performed for the environmental remediation of real property conducted:
 - (a) Under a federal or state program governing environmental remediation of real property including programs established pursuant to KRS 224.1-400, 224.1-405, 224.46-530, and 224.1-450 to 224.1-465;
 - (b) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of the cabinet; or
 - (c) Under a Commonwealth voluntary cleanup program authorized under KRS 224.1-510 to 224.1-532.
- (7) "Holder" means the grantee of an environmental covenant.
- (8) "Indexing" means the practice or method kept by a county clerk's office to record legal property transactions.
- (9) "Interest" means all or part of a legal equitable claim to a right in real property which shall include both possessory and nonpossessory interests.
- (10) "Owner" means a person that owns a fee simple interest or any other interest in real property that is subject to an environmental covenant.
- (11) "Person" shall have the meaning specified in KRS 224.1-010(16){(17)}.

- (12) "Public notice" means the publication of required information in a daily or weekly newspaper of major circulation located in the county or counties where the property subject to the proposed environmental covenant is located. If there is no daily or weekly newspaper of major circulation in the county or counties where the property is located, public notice shall mean publication of required information in a daily or weekly newspaper of major circulation in a county adjacent to the county or counties where the property is located.
- (13) "Subordination agreement" means an agreement affecting priority of interests in a real property that is subject to an environmental covenant.
- (14) "Servitude" means a right, burden, or restriction on the use of real property that passes from the current owner or tenant to any owners or tenants in succession.

➔Section 27. KRS 224A.011 is amended to read as follows:

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

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority;
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded;
- (3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency;
- (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter;
- (5) "Authority revenues" means the totality of all:
 - (a) Service charges;
 - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
 - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;
 - (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
 - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
 - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and
 - (g) Payments under agreements with any agencies of the state and federal government;
- (6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority;
- (7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control;
- (8) "Construction" means and includes but is not limited to:
 - (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;
 - (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and

- (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects;
- (9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
 - (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Energy and Environment Cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more;
- (10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use;
- (11) "Energy and Environment Cabinet" means the Kentucky Energy and Environment Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act;
- (12) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority;
- (13) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act;
- (14) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply but not by way of limitation to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; a regional wastewater commission established under KRS 65.8901 to 65.8923; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection;
- (15) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes;
- (16) "Infrastructure project" means any construction or acquisition of treatment works, facilities related to the collection, transportation, and treatment of wastewater as defined in KRS 65.8903, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Energy and Environment Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; broadband deployment project; or any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300;
- (17) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section;

- (18) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project;
- (19) "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency;
- (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes;
- (21) "Person" means any individual, firm, partnership, association, corporation, or governmental agency;
- (22) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes;
- (23) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Energy and Environment Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district. The evaluation by the authority of infrastructure for broadband deployment projects shall be undertaken with consideration given to input from area development districts, telecommunications businesses, information services, technology industries, governmental entities, and Kentucky-based nonprofit organizations, including ConnectKentucky;
- (24) "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency;
- (25) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (26) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet;
- (27) "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes;
- (28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement;
- (29) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state;
- (30) "Solid waste" means "solid waste" as defined by KRS 224.1-010(30)~~[(31)]~~(a);
- (31) "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used

solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility;

- (32) "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section;
- (33) "State" means the Commonwealth of Kentucky;
- (34) "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority;
- (35) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act;
- (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120;
- (37) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters;
- (38) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users;
- (39) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, facilities to collect, transport, and treat wastewater as defined in KRS 65.8903, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures;
- (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters;
- (41) "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky;
- (42) "Broadband deployment project" means the construction, provision, development, operation, maintenance, leasing, or improvement of broadband infrastructure, broadband services, or technologies that constitute a part of, or are related to, broadband infrastructure or broadband services, to provide for broadband service in unserved areas of the Commonwealth; and
- (43) "Unserved area" means any place where broadband service is not available.

➔Section 28. KRS 349.010 is amended to read as follows:

As used in this chapter:

- (1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;
- (2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r)~~(s)~~ and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

- (3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;
- (4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;
- (5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;
- (6) "Commissioner" means the commissioner of the Department for Natural Resources;
- (7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;
- (8) "Department" means the Department for Natural Resources;
- (9) "Director" means the director of the Division of Oil and Gas as established in KRS 353.530;
- (10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;
- (11) "Division" means the Division of Mine Permits in the Department for Natural Resources;
- (12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;
- (13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;
- (14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;
- (15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;
- (16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r)~~{(s)}~~;
- (17) "Mine permittee" means the permittee as defined in KRS 350.010(21);
- (18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;
- (19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;
- (20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;
- (21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;
- (22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane

well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

- (23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;
- (24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (25) "Plat" means a map, drawing, or print showing the location of a well;
- (26) "Review board" means the Coalbed Methane Well Review Board;
- (27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;
- (28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;
- (29) "Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;
- (30) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;
- (31) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;
- (32) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;
- (33) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;
- (34) "Venting" means the act of releasing coalbed methane to the atmosphere;
- (35) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and
- (36) "Workable coalbed" means:
 - (a) Any coalbed twenty-four (24) inches or more in thickness;
 - (b) Any coalbed actually being operated commercially;
 - (c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or
 - (d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

➔Section 29. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Adulterated specimen" means a specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration;
 - (b) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
 - (c) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (d) ~~"Board" means the Mining Board created in KRS 351.105;~~

- ~~(e)~~ "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
- ~~(e)~~~~(f)~~ "Commission" means the Mine Safety Review Commission created by KRS 351.1041;
- ~~(f)~~~~(g)~~ "Commissioner" means commissioner of the Department for Natural Resources;
- ~~(g)~~~~(h)~~ "Department" means the Department for Natural Resources;
- ~~(h)~~~~(i)~~ "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
- ~~(i)~~~~(j)~~ "Excavations and workings" means the excavated portions of a mine;
- ~~(j)~~~~(k)~~ "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
- ~~(k)~~~~(l)~~ "Gassy mine." All mines shall be classified as gassy or gaseous;
- ~~(l)~~~~(m)~~ "Illicit substances" includes prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs;
- ~~(m)~~~~(n)~~ "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
- ~~(n)~~~~(o)~~ "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- ~~(o)~~~~(p)~~ "Medical review officer" or "MRO" means a licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, and the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information;
- ~~(p)~~~~(q)~~ "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;
- ~~(q)~~~~(r)~~ "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- ~~(r)~~~~(s)~~ "Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;
- ~~(s)~~~~(t)~~ "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;
- ~~(t)~~~~(u)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- ~~(u)~~~~(v)~~ "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;
- ~~(v)~~~~(w)~~ "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any oncoming shift;

- (w)~~(x)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (x)~~(y)~~ "Serious physical injury" means an injury which has a reasonable potential to cause death;
- (y)~~(z)~~ "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (z)~~(aa)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (aa)~~(ab)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- (ab)~~(ac)~~ "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- (ac)~~(ad)~~ "Division" means the Division of Mine Safety;
- (ad)~~(ae)~~ "Director" means the director of the Division of Mine Safety;
- (ae)~~(af)~~ "Probation" means the status of a certification or license issued by the Division of Mine Safety that conditions the validity of the certification or license upon compliance with orders of the Mine Safety Review Commission; and
- (af)~~(ag)~~ "Final order of the commission" means an order which has not been appealed to the Franklin Circuit Court within thirty (30) days of entry, or an order affirming the commission's order that has been entered by any court within the Commonwealth and for which all appeals have been exhausted.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

➔Section 30. KRS 351.070 is amended to read as follows:

- (1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine safety specialists and other personnel of the department. There is created within the Department for Natural Resources a Division of Mine Safety.
- (2) The secretary shall appoint a director to the Division of Mine Safety in accordance with KRS 224.10-020(2) and prescribe his or her powers and duties.
- (3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection regions as necessary, so as to equalize as nearly as practicable the work of each mine safety specialist, and may assign to the specialists their respective regions.
- (4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine safety specialists or change specialists from one (1) region to another.
- (5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

- (11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The secretary of the Energy and Environment Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and any accidents involving serious physical injury and, within sixty (60) days of completion of the investigation, shall report his or her findings and recommendations to the Governor, the Mine Safety Review Commission, ~~the Mining Board,~~ and the Legislative Research Commission. Accident interviews conducted by the division shall be closed proceedings. The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. Effective January 1, 2009, the division shall appoint an existing full-time employee to act as a family liaison. The family liaison shall have the responsibility during an accident investigation to keep the families of miners informed of the progress and findings of the accident investigation. The family liaison shall be trained in mining and in grief counseling.
- (15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans, mine seal construction plans, unsafe working conditions, and mine ventilation plans that could lead to imminent danger or serious physical injury. The Energy and Environment Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars (\$5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

➔Section 31. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine safety specialists to ensure at least two (2) inspections annually at all surface mines, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional mine safety specialists to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than six (6) times annually. Two (2) of the six (6) general inspections of underground mines shall be full electrical inspections. One (1) or more of the appointees shall be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety specialists to perform safety analysis and safety instruction. The term of office of each mine safety specialist shall be during the period of capable, efficient service and good behavior.
- (2) All mine safety specialists shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine safety specialist unless he or she holds a current mine foreman's certificate. A person appointed as mine safety specialist shall pass an examination administered by the ~~department~~~~board~~. The commissioner may recommend to the Governor applicants for the positions of mine safety specialist who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

- (4) Mine safety specialists shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by mine safety specialists who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine safety specialist shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Each mine safety specialist shall provide authorization to the division to perform a criminal background check by means of a fingerprint check by the Department of Kentucky State Police. The results of the state criminal background check shall be sent to the director of the division. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

➔Section 32. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned mining duties by a licensee as a laborer or supervisor unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) The division shall require that all applicants for certified miner and initial applicants for other mining certifications pursuant to this chapter shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with KRS 351.182 and 351.183.
- (3) A permit as trainee miner shall be issued by the commissioner to any person who has submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183, and has completed a program of education of a minimum of forty (40) hours for underground mining or twenty-four (24) hours for surface mining comprised of sixteen (16) hours of classroom training and eight (8) hours of mine specifics or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the ~~department~~^{board}, as provided in KRS 351.106. A requirement for a permit as a trainee miner shall be one (1) hour of classroom training dedicated to alcohol and substance abuse education.
- (4) Trainee miners shall work within the sight and sound of a certified miner.
- (5) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (6) A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner. Any trainee miner who exceeds six (6) months in obtaining the forty-five (45) working days of experience required in this section, shall submit proof of alcohol- and drug-free status in accordance with the provisions of KRS 351.182 and 351.183.
- (7) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination may be given orally, upon approval by the commissioner, if the miner is unable to read or comprehend a written examination.
- (8) Examinations shall be held in any regional office during regular business hours.
- (9) If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant as soon as possible, but in no case more than thirty (30) days after the date of examination.
- (10) Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action

complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the applicant.

- (11) If the applicant is aggrieved by the action of the commissioner, he may appeal to the commission which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- (12) The applicant may appeal from the final order of the commission by filing in the Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

➔Section 33. KRS 351.103 is amended to read as follows:

- (1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the ~~department[board]~~, or certified miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in KRS 351.106.
- (2) Supervisory, clerical, and technically trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

➔Section 34. KRS 351.1041 is amended to read as follows:

- (1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Energy and Environment Cabinet, Office of the Secretary, for administrative purposes. The commission shall:
 - (a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;
 - (b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, allegations of unsafe working conditions, violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;
 - (c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:
 1. All reports of coal mining fatalities and serious physical injuries provided by the commissioner under KRS 351.070(14);
 2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury or death resulting from the violations;
 3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
 4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.
- (2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the ~~commission[board]~~ shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.
- (3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.
- (4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.
- (5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352.

The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.

- (6) The commission shall meet on the call of the chair or a majority of the members of the commission.
- (7) The Energy and Environment Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Energy and Environment Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B and this chapter, notwithstanding the provisions of KRS 13B.030(2)(b).
- (8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.
- (9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.
- (10) The secretary of the Energy and Environment Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

➔Section 35. KRS 351.1045 is amended to read as follows:

The members of the Mine Safety Review Commission~~and the Mining Board~~ shall complete a forty (40) hour new miner training course if they have not completed the course within the previous two (2) years. In addition, they shall participate in a site visit of an underground mine and a surface coal mine and thereafter make a site visit of an underground mine at least every three (3) years.

➔Section 36. KRS 351.106 is amended to read as follows:

- (1) The ~~department~~~~(Mining Board)~~ shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the ~~department~~~~(board)~~, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. Effective January 1, 2009, in addition, six (6) hours of annual training on changes in mine safety laws, safe retreat mining practices, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be required for all mine foremen. This annual training for mine foremen shall be provided exclusively by the division.
- (2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.
- (3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.
- (4) Beginning with the first full calendar year after the effective date established by the ~~department~~~~(board)~~ and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.
- (5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.
- (7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.

- (8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (11) The ~~department~~~~board~~ may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the ~~department~~~~board~~, if the training and education meet the minimum requirements of this chapter.
- (12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the ~~department~~~~board~~. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access. The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining specialty certification suspended or revoked by another state. If a person has his or her miner certification, foreman certification, electrician certification, or other mining specialty certification probated in another state, the commissioner ~~or the Mining Board~~ may, at his or ~~her~~~~its~~ discretion, grant the equivalent certification. However, that certification shall be placed on probation in Kentucky until the probationary period in the other state has expired.
- (14) The commissioner is authorized and directed to utilize state mine safety specialists, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (15) ~~[The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request.]~~ The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

➔Section 37. KRS 351.110 is amended to read as follows:

- (1) The ~~department~~~~board~~ shall not admit any applicant for certification as a mine inspector, mine safety analyst, electrical inspector, mine safety instructor, mine foreman, or assistant mine foreman to take an examination given by it unless the applicant has the experience required by this chapter, and has submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183, and has presented to the examiner at the time of registration for the examination a United States postal money order or certified check in the amount of fifty dollars (\$50). All money orders or certified checks required herein shall be made payable to the State Treasurer, Frankfort, Kentucky.
- (2) All money paid to the State Treasurer for licenses and fees required by this chapter shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (3) The ~~department~~~~board~~ may refuse to examine any applicant who cannot readily understand the written English language or cannot express himself intelligently in English, or who is obviously intoxicated.

➔Section 38. KRS 351.120 is amended to read as follows:

- (1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the

~~department~~~~[board]~~, or miner who has passed the examination given by direction of the ~~department~~~~[board]~~ for that position, and who has met the requirements for drug- and alcohol-free status.

- (2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the ~~department~~~~[board]~~, or miner and is authorized to act as such.
- (3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:
 - (a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and
 - (b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.
- (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.
- (5) The class of mine foreman's certificate awarded shall be determined by the ~~department~~~~[board]~~ according to the experience of the applicant.
- (6) No certificate shall be granted to any person who does not present to the ~~department~~~~[board]~~ satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. The applicant also shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with KRS 351.182 and 351.183. For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.
- (7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.
- (8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.
- (9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.
- (10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination and submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183 may be granted a temporary certification that is valid only until the ~~department~~~~[board]~~ acts upon his or her certification at its next regularly scheduled meeting.
- (11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

- (12) The commissioner immediately shall suspend any certification for violation of drug- and alcohol-free status or for failure or refusal to submit to a drug and alcohol test authorized by KRS 351.182, 351.183, 351.184, 351.185, and 352.180. The commissioner shall, by certified mail, notify the holder of the certification of his or her suspension and of the following:
- (a) The right to pursue one (1) of the following options:
 - 1. Appeal the suspension to the Mine Safety Review Commission within thirty (30) days of the notification; or
 - 2. Notify the commissioner of the Department for Natural Resources or the director of the Division of Mine Safety within thirty (30) days of the notification that the holder intends to be evaluated by a medical professional trained in substance treatment, to complete any prescribed treatment, and to submit an acceptable result from a drug and alcohol test as required by KRS 351.182;
 - (b) Failure to file an appeal or failure to notify the commissioner of the Department for Natural Resources or the director of the Division of Mine Safety of the holder's intent to comply with paragraph (a)2. of this subsection within thirty (30) days of the notification shall result in the revocation of all licenses and certifications issued by the Division of Mine Safety for a period of not less than three (3) years, and the holder shall remain ineligible for any other certification issued by the Division of Mine Safety during the revocation period. Certifications and licenses revoked under this paragraph may be reissued by:
 - 1. Compliance with all training and testing requirements;
 - 2. Satisfying the requirements of KRS 351.182 and 351.183; and
 - 3. Compliance with all orders of the Mine Safety Review Commission; and
 - (c) The completion of the evaluation, treatment, and submission of an acceptable drug test pursuant to paragraph (a)2. of this subsection or the revocation described under paragraph (b) of this subsection shall be considered a first offense.
- (13) The licenses and certifications of a miner who notifies the commissioner of the Department for Natural Resources or the director of the Division of Mine Safety of his or her intent to comply with subsection (12)(a)2. of this section shall remain suspended until the miner has provided proof of the evaluation and successful completion of any prescribed treatment and has submitted a negative drug and alcohol test as required by KRS 351.182 to the division. The drug and alcohol test shall be taken no more than thirty (30) days prior to the submission of the proof required by this section. Upon receipt and review of the proof by the division, the miner's licenses and certifications shall be restored. In the event that the miner fails to successfully complete the evaluation, treatment, and drug test within one hundred twenty (120) days of his or her notification pursuant to subsection (12)(a)2. of this section, the miner's licenses and certifications issued by the division shall be revoked for a period prescribed under KRS 351.990(8). The one hundred twenty (120) day time period set out in this section shall be extended upon proof that the miner is complying with the recommendations of the medical professional.
- (14) If the suspension described in subsection (12) of this section occurs following the miner's first offense as described in this section or KRS 351.184, the notification sent to the miner shall not include the option of notifying the division of the miner's intent to seek an evaluation and treatment. The miner shall only have the right to appeal the suspension to the Mine Safety Review Commission within thirty (30) days of notification. If the miner fails to appeal the suspension, the penalty shall be assessed according to KRS 351.990(8)(b) or (c).

➔Section 39. KRS 351.122 is amended to read as follows:

- (1) In lieu of an examination prescribed by law or regulation, the ~~department~~~~board~~ may enter into a reciprocal agreement with another state regarding the certification of miners. The ~~department~~~~board~~ may, pursuant to a reciprocal agreement, issue to any person holding a certificate issued by another state a certificate permitting him or her to perform similar tasks in the Commonwealth if:
- (a) The ~~department~~~~board~~ finds that the requirements for certification in the other state are substantially equivalent to those of Kentucky;
 - (b) The person passes only the applicable part of the examination with regard to Kentucky law which is uniquely different from the other state;
 - (c) The person has submitted proof, in accordance with KRS 351.182, that he or she is drug and alcohol free;

- (d) The person's retraining is sufficient to meet Kentucky requirements; and
 - (e) The person's certification in Kentucky or in any other state has not been suspended, revoked, or probated.
- (2) Upon receipt of notice from a reciprocal state of a disciplinary action relating to any of the certifications or licenses issued to a miner who also holds corresponding licenses or certifications issued by the Division of Mine Safety, the commissioner shall impose analogous sanctions against the miner's Kentucky licenses or certifications. These sanctions shall terminate upon proof of compliance with the orders from the reciprocal state.

➔Section 40. KRS 351.125 is amended to read as follows:

The department shall provide first-aid training incorporating all training required by the state's approved program for emergency medical technicians or the department's mine emergency technician program which is applicable to mines. Each candidate for certification as a mine foreman shall complete the department's first-aid course of instruction and shall pass an examination on the course as a prerequisite for certification. ~~{The course of instruction and examination shall have prior approval of the board.}~~

➔Section 41. KRS 352.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;
 - (b) "Active workings" means all places in a mine that are ventilated and inspected regularly;
 - (c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
 - (d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (e) ~~{ "Board" means the Mining Board created in KRS 351.105;~~
 - ~~(f)~~ "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - ~~(f)~~~~(g)~~ "Commissioner" means commissioner of the Department for Natural Resources;
 - ~~(g)~~~~(h)~~ "Department" means the Department for Natural Resources;
 - ~~(h)~~~~(i)~~ "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - ~~(i)~~~~(j)~~ "Director" means the director of the Division of Mine Safety;
 - ~~(j)~~~~(k)~~ "Excavations and workings" means the excavated portions of a mine;
 - ~~(k)~~~~(l)~~ "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in any entry or room;
 - ~~(l)~~~~(m)~~ "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - ~~(m)~~~~(n)~~ "Gassy mine." All underground mines shall be classified as gassy or gaseous;
 - ~~(n)~~~~(o)~~ "High voltage" means any voltage of one thousand (1,000) volts or more;
 - ~~(o)~~~~(p)~~ "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical injury before the condition or practice can be abated;
 - ~~(p)~~~~(q)~~ "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;
 - ~~(q)~~~~(r)~~ "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half

percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

- ~~(r)~~~~(s)~~ "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- ~~(s)~~~~(t)~~ "Low voltage" means up to and including six hundred sixty (660) volts;
- ~~(t)~~~~(u)~~ "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;
- ~~(u)~~~~(v)~~ "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;
- ~~(v)~~~~(w)~~ "Mine foreman" means a certified person whom the licensee, mine manager, or superintendent places in charge of the workings of the mine and of persons employed therein;
- ~~(w)~~~~(x)~~ "Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;
- ~~(x)~~~~(y)~~ "NAD 83" means the North American Datum, 1983 version, in feet units;
- ~~(y)~~~~(z)~~ "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;
- ~~(z)~~~~(aa)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- ~~(aa)~~~~(ab)~~ "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;
- ~~(ab)~~~~(ac)~~ "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any oncoming shift;
- ~~(ac)~~~~(ad)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- ~~(ad)~~~~(ae)~~ "Serious physical injury" means an injury which has a reasonable potential to cause death;
- ~~(ae)~~~~(af)~~ "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- ~~(af)~~~~(ag)~~ "Single Zone Projection" means the Kentucky Single Zone State Plane Coordinate System of 1983, based on the Lambert Conformal Conical map projection with double standard parallels on the North American Datum, 1983 version, as established in 10 KAR 5:010;
- ~~(ag)~~~~(ah)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- ~~(ah)~~~~(ai)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- ~~(ai)~~~~(aj)~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- ~~(aj)~~~~(ak)~~ "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;
- ~~(ak)~~~~(al)~~ "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;
- ~~(al)~~~~(am)~~ "Working place" means the area of a coal mine inby the last open crosscut;

~~(am)~~~~(an)~~ "Working section" means all areas of a coal mine from the loading point to and including the working faces; and

~~(an)~~~~(ao)~~ "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

- (2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.
- (3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

➔Section 42. KRS 352.310 is amended to read as follows:

Any fire boss who fails to perform his duties, or who makes a false report of the condition of any place in the portion of the mine allotted to him for examination, shall be suspended by the mine foreman, and his name shall be given to the mine inspector for prosecution. If he is found guilty by the *Mine Safety Review Commission*~~board~~, he shall return his certificate of qualification to the department.

➔Section 43. KRS 224.10-100 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

- (1) Exercise general supervision of the administration and enforcement of this chapter, and all rules, regulations, and orders promulgated thereunder;
- (2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;
- (3) Encourage industrial, commercial, residential, and community development which provides the best usage of land areas, maximizes environmental benefits, and minimizes the effects of less desirable environmental conditions;
- (4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;
- (5) Provide for the prevention, abatement, and control of all water, land, and air pollution, including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;
- (6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;
- (7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;
- (8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;
- (9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;
- (10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any regulation which may be promulgated thereunder;
- (11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and records by the issuance of subpoenas;

- (12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. The funds received by the cabinet shall be deposited in the State Treasury to the account of the cabinet;
- (13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;
- (14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups, and industries;
- (15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;
- (16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems, and to warn of emergency conditions;
- (17) Adopt, modify, or repeal with the recommendation of the commission any standard, regulation, or plan ~~specified in KRS 224.1-110(5) and (6)~~;
- (18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of the remedial measures the cabinet deems necessary;
- (19) Issue, continue in effect, revoke, modify, suspend, or deny under such conditions as the cabinet may prescribe and require that applications be accompanied by plans, specifications, and other information the cabinet deems necessary for the following permits:
 - (a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue the permits to any person, or any partnership, corporation, etc., of which the person owns more than ten percent (10%) interest, who has improperly constructed, operated, or maintained a sewage system willfully, through negligence, or because of lack of proper knowledge or qualifications until the time that person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;
 - (b) Permits for the installation, alteration, or use of any machine, equipment, device, or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or
 - (c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities;
- (20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of the exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any charge, other than emissions fees assessed pursuant to KRS 224.20-050, and that certain nonprofit organizations shall be charged lower fees to process water discharge permits under KRS 224.16-050(5);
- (21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order, or permit, technological levels of treatment and effluent limitations;
- (22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device, or test and the methodologies and procedures for the use of the equipment, device, or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning the monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;
- (23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and such other information the cabinet may require;
- (24) Promulgate regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste

management which shall contain but not be limited to the provisions set forth in KRS 224.43-345, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain but not be limited to the following:

- (a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;
- (b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;
- (c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future; and
- (d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of the wastes.

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

- (25) Perform other acts necessary to carry out the duties and responsibilities described in this section;
- (26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards;
- (27) Promulgate regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements, including but not limited to requirements for the amount, duration, release, and forfeiture of the bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. The account shall be known as the "sewage treatment system rehabilitation fund" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided;
- (28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet; and
- (29) Through the secretary or designee of the secretary, enter into, execute, and enforce reciprocal agreements with responsible officers of other states relating to compliance with the requirements of KRS Chapters 350, 351, and 352 and the administrative regulations promulgated under those chapters.

➔Section 44. KRS 350.240 is amended to read as follows:

The Energy and Environment Cabinet may adopt~~[in the manner provided in subsection (17) of KRS 224.10-100 and subsections (5) and (6) of KRS 224.1-110]~~ reasonable regulations for the reclamation of land disturbed or removed in the mining of clay. Such regulations shall encourage water impoundments and shall follow the standards established in Article III of the Interstate Mining Compact. The cabinet shall have the authority to adopt such regulations prior to the effective date of the Interstate Mining Compact and irrespective of whether the state becomes a member or withdraws from membership in the Interstate Mining Compact.

➔Section 45. KRS 224.30-175 is amended to read as follows:

All local governments~~[, as defined in KRS 224.30-105,]~~ may develop, adopt, and maintain a comprehensive program of noise regulation. A~~[Such]~~ program may include a study of the noise problems resulting from uses and activities within its jurisdiction and the development and adoption of a noise control plan.

➔Section 46. KRS 224.43-815 is amended to read as follows:

~~{(4)}~~ The secretary of the Cabinet for Economic Development and the special assistant to the Governor for coal and energy policy, with the approval of the Governor and the Legislative Research Commission, may execute contracts pursuant to KRS 224.43-810.

~~{(2)} No agreements or contracts may be entered into before a regional integrated waste treatment and disposal demonstration facility has received a certificate of environmental safety and public necessity from the board established in KRS 224.46-820.~~

➔Section 47. KRS 224.46-520 is amended to read as follows:

- (1) No person shall engage in the storage, treatment, recycling, or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to, insuring that hydrologic, seismologic, geologic, and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste incinerator, landfill, or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.40-310(6). The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment, or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.40-310(1) to (5) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny, or condition a construction permit, shall consider the following:
 - (a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;
 - (b) An evaluation of the public health, safety, and environmental aspects of the proposals;
 - (c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety, and the environment;
 - (d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and
 - (e) The relationship of the proposal to local planning and existing development.

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

- (2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.
- (3) In conjunction with the application for permits under this section, the applicant shall establish adequate financial responsibility as follows:
 - (a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include

the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued, the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit, or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company, or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

- (b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost shall then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit, or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure, and annually thereafter for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement shall be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan, or otherwise justified, the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility shall likewise be released to the applicant; and
- (c) All applicants for any hazardous waste permit shall provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility shall be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment, or disposal facility shall be one million dollars (\$1,000,000) per occurrence with an annual aggregate of two million dollars (\$2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars (\$3,000,000) per occurrence with an annual aggregate of six million dollars (\$6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage. The cabinet shall accept a demonstration of financial responsibility during the post-closure period of a facility for a lesser amount for sudden or non-sudden occurrences where it is shown that a lesser amount of financial responsibility will be adequate to provide compensation for third-party injury or property damage and corrective action, considering site and facility conditions and other site-specific factors. Financial responsibility in post-closure for sudden and non-sudden occurrences and corrective action may be

demonstrated through a letter of credit, surety or other bond, corporate guarantee, trust fund, liability insurance, self-insurance, or combination of these or other methods as approved by the cabinet.

- (4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility. The permittee may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time during the thirty (30) year post-closure monitoring and maintenance period. Upon receipt of such application, the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding, the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required, in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment. The cabinet may require additional monitoring, site maintenance, or remedial measures consistent with KRS Chapter 224 any time after termination of the post-closure monitoring and maintenance of the permitted facility in the event that the cabinet determines such actions are necessary for the protection of human health and the environment.
- (5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility shall be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.
- (6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under Section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.
- (7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.
- (8) Any hazardous waste treatment, storage, or disposal facility shall close in accordance with the permit and this chapter, if the site or facility has not been maintained in operational condition in conformance with this chapter, for any period of six (6) months or longer. The permittee shall be afforded an opportunity to be heard on the proposed termination of authorization to operate, and termination under this section shall not be required where the permittee demonstrates that steps have been taken to bring the facility, within a reasonable time not to exceed ninety (90) days, into full operational status in accordance with this chapter and applicable regulations. Within ninety (90) days, the cabinet shall review existing hazardous waste treatment, storage, or disposal permits to determine compliance with this section.

➔Section 48. KRS 350.054 is amended to read as follows:

- (1) There is established a special fund to be known as the "Illegal Mining and Conveyance Reclamation Fund" which shall be under the control of the Energy and Environment Cabinet.
- (2) The fund shall consist of all moneys from the sale or forfeiture of all instrumentalities used in violation of KRS 350.057(3) or 350.060(1) ~~as provided for in KRS 350.053~~.
- (3) Moneys in the fund may be used for the following purposes:
 - (a) To reclaim lands mined without a permit or authorization, as required by KRS 350.057 or 350.060(1), and not eligible for the abandoned mine lands reclamation fund; and

- (b) To defray all expenses associated with the seizure, storing, and sale of forfeited property ~~— pursuant to KRS 350.0531.~~
- (4) Moneys contained in the illegal mining and conveyance reclamation fund shall be deemed a trust and agency account and shall not lapse.
- (5) The cabinet shall have access to and control of the moneys held in the illegal mining and conveyance reclamation fund, but shall expend the moneys only for the purposes set forth in subsection (3) of this section.

➔Section 49. The following KRS sections are repealed:

- 151.232 Participation in development of administrative regulations.
- 154.47-100 Definitions for KRS 154.47-105 to 154.47-120.
- 154.47-105 Legislative findings.
- 154.47-110 Kentucky Forest Products Council.
- 154.47-120 Purposes of council.
- 224.1-100 Environmental Quality Commission: Membership, terms, compensation, officers, meetings.
- 224.1-105 Eligibility limitations on commission membership.
- 224.1-110 Powers and duties of commission.
- 224.1-115 Recommendation of adoption or rejection of proposals -- Adoption upon recommendation of rejection, statement of reason.
- 224.1-200 Environmental trust fund created.
- 224.1-205 Uses for environmental trust fund.
- 224.1-210 Environmental Board.
- 224.1-215 Powers and duties of Environmental Board.
- 224.1-220 Limitation on use of fund.
- 224.10-660 Kentucky Recycling and Marketing Assistance Program -- Advisory committee -- Report.
- 224.30-050 Noise emission prohibitions.
- 224.30-100 Findings and policy.
- 224.30-105 Definitions for KRS 224.30-100 to 224.30-190.
- 224.30-110 Agency cooperation and compliance with control requirements -- Review of standards or regulations -- Report to secretary.
- 224.30-115 Development and maintenance of comprehensive state-wide program of noise regulation.
- 224.30-120 Powers of secretary.
- 224.30-125 Certification of products -- Purchase or lease for state government -- Periodic testing -- Procedure when level exceeds that on which certification is based.
- 224.30-130 Variances.
- 224.30-135 Conditions imposed on granting variances -- Time limit -- Extension.
- 224.30-140 Variance petition -- Notice -- Hearing.
- 224.30-145 Annual report.
- 224.30-150 Standards -- Enforcement jurisdiction.
- 224.30-155 Applicability of KRS 224.10-420, 224.10-440 and 224.10-470.
- 224.30-160 Remedies additional to those available at law.
- 224.30-165 Prohibitions.
- 224.30-170 Exceptions.

- 224.30-180 Noise control plan -- Contents.
- 224.30-185 Adoption and enforcement of ordinances to implement plan.
- 224.30-195 Citation of KRS 224.30-100 to 224.30-190.
- 224.43-070 Solid Waste Management Legislative Task Force -- Composition -- Duties.
- 224.43-080 Newsprint Recycling Task Force -- Composition -- Duties.
- 224.43-320 Inspectors for municipal solid waste landfills -- Exception.
- 224.43-710 Technical and financial assistance for developing plans.
- 224.43-720 Amount of assistance.
- 224.43-730 Applications for assistance.
- 224.46-810 Definitions.
- 224.46-820 Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting Board.
- 224.46-825 Powers and duties of board.
- 224.46-830 Certificate of environmental safety and public necessity -- Application -- Factors considered -- Presentation of findings -- Appeals.
- 224.46-840 Site requirements -- Qualified hazardous waste.
- 224.46-850 Establishment of plan for industrial park component of site.
- 224.46-860 Operational report.
- 224.46-870 Planning for future needs.
- 224.50-020 Advisory committee for agricultural chemical and chemical container disposal program.
- 350.035 Department for Natural Resources -- Divisions -- Appointment of special investigations officers.
- 350.052 Powers, qualifications, and training of special investigations officers.
- 350.053 Seizure and sale of equipment -- Rights of owner or lien holder.
- 350.260 Small Coal Operators Advisory Council.
- 350.470 Review of regulations.
- 350.715 Pool administrator.
- 351.105 Mining Board -- Membership -- Hearings -- Administrative regulations.
- 351.1055 Mine Equipment Review Panel -- Membership -- Recommendations.
- 352.550 Coercion of trade of miners prohibited.

Signed by Governor March 27, 2017.

CHAPTER 118

(SB 11)

AN ACT relating to nuclear power.

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

➔Section 1. KRS 278.600 is amended to read as follows:

As used in *this section and* KRS ~~278.605 and~~ 278.610, unless the context requires otherwise:

- (1) "Nuclear power facility" or "nuclear facility" means a nuclear fission thermal power plant;

- (2) "High-level nuclear wastes" means the aqueous wastes resulting from the operation of the first cycle of the solvent extraction system or equivalent and the concentrated wastes of the subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel. High-level nuclear wastes shall include spent fuel assemblies prior to fuel reprocessing;
- (3) "Certify" means to issue a certificate of public convenience and necessity under KRS 278.020;
- (4) "~~Plan~~~~[Technology or means]~~ for ~~storage~~~~[the disposal]~~ of high-level nuclear waste" means a method for the ~~storage~~~~[permanent and terminal disposal]~~ of high-level nuclear waste ***in accordance with federal laws and regulation;***
- (5) ***"Storage" means the retention of high-level nuclear waste, spent nuclear fuel, or transuranic waste with the intent to recover the waste or fuel for subsequent use, processing, or disposal;***
- (6) ***"Low-level nuclear waste" means items that have become contaminated with radioactive material or have become radioactive through exposure to neutron radiation; and***
- (7) ***"Mixed nuclear waste" means waste that is both radioactive and chemically hazardous.*** ~~Such disposition shall not necessarily preclude the possibility of an approved process for retrieval of such waste.~~

➔Section 2. KRS 278.610 is amended to read as follows:

- (1) ~~[If the requirements of KRS 278.605 have been met,]~~The Public Service Commission may certify a nuclear power facility if it finds that ***the facility and plan for storage of the facility's high-level nuclear waste have been approved by the Nuclear Regulatory Commission.***
- (2) ***The commission shall have the authority to hire a consultant to perform duties relating to this section. Any expenses or fees incurred by the commission in hiring a consultant shall be borne by the applicant.***
- (3) ***The construction of low-level nuclear waste disposal sites in the Commonwealth shall be prohibited, except as provided in KRS 211.852.***
- ~~(1) Specific facilities with adequate capacity to contain high level nuclear waste are in actual operation, or will be in operation at the time the nuclear power facility being certified requires the means for the disposal of high level nuclear waste;~~
- ~~(2) The plan for disposal of high level nuclear waste for the nuclear facility to be certified is in full conformity with the technology approved by the authorized agency of the United States government; and~~
- ~~(3) The cost of disposal of high level nuclear waste from the nuclear facility to be certified is known with reasonable certainty, such that an accurate economic assessment of the proposal can be completed.~~

➔Section 3. The Energy and Environment Cabinet and Public Service Commission are directed to review existing state administrative regulations and regulatory processes in order to identify what, if any, changes to state permitting and state utility procedures are advisable in order to assure that the costs and environmental consequences associated with construction, operation, waste management, and decommissioning of nuclear power facilities are fully considered during the permitting and the certification processes. The cabinet and commission shall report their recommendations to the Legislative Research Commission by December 1, 2017.

➔Section 4. The following KRS section is repealed:

278.605 Construction prohibited until means for disposal of high-level nuclear waste approved by United States government -- Exceptions for nuclear-based technologies.

➔Section 5. This Act shall be cited as the Robert J. Leeper Act.

Signed by Governor March 27, 2017.

CHAPTER 119

(SB 19)

AN ACT relating to credit freezes for protected consumers.

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

➔SECTION 1. A NEW SECTION OF KRS 367.363 TO 367.365 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section:

- (a) "Protected person" means an individual who is under sixteen (16) years of age at the time a request for the placement of a security freeze is made, or who is an incapacitated person or other person for whom a guardian or conservator has been appointed;*
- (b) "Record" means a compilation of information which:*
 - 1. Identifies a protected person;*
 - 2. Is created by a consumer reporting agency solely for the purpose of complying with this section; and*
 - 3. Is not created or used to consider the protected person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;*
- (c) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected person; and*
- (d) "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected person, including but not limited to:*
 - 1. A court order granting custodianship, guardianship, or conservatorship;*
 - 2. A birth certificate;*
 - 3. A lawfully executed and valid power of attorney; or*
 - 4. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected person.*

(2) A consumer reporting agency shall place a security freeze on a protected person's record or credit report if:

- (a) The consumer reporting agency receives a request from the protected person's representative for the placement of the security freeze; and*
- (b) The protected person's representative:*
 - 1. Submits the request to the consumer reporting agency at the address designated by the consumer reporting agency to receive the request;*
 - 2. Provides to the consumer reporting agency clear and proper identification of the protected person and the representative;*
 - 3. Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected person; and*
 - 4. Pays to the consumer reporting agency a fee as prescribed in subsection (8) of this section.*

(3) If a consumer reporting agency does not have a file pertaining to a protected person when the consumer reporting agency receives a request pursuant to subsection (2) of this section, the consumer reporting agency shall create a record for the protected person.

(4) Within thirty (30) days after receiving a request pursuant to this section, a consumer reporting agency shall place a security freeze on the protected person's record or credit report.

(5) Unless a security freeze is removed pursuant to subsection (7) or (10) of this section, a consumer reporting agency may not release the protected person's credit report, any information derived from the protected person's credit report, or any record created for the protected person.

(6) A security freeze that is placed on a protected person's record or credit report placed under this section remains in effect until either:

- (a) The protected person or the protected person's representative requests that the consumer reporting agency remove the security freeze pursuant to subsection (7) of this section; or*
- (b) The security freeze is removed pursuant to subsection (10) of this section.*

(7) (a) To remove a security freeze for a protected person, the protected person or the protected person's representative shall submit a request for the removal of the security freeze to the consumer reporting

agency at the address designated by the consumer reporting agency to receive the request, and pay a fee as prescribed in subsection (8) of this section. In addition:

- 1. If the protected person requested the removal of the security freeze, the protected person shall provide to the consumer reporting agency either of the following:*
 - a. Proof that the protected person's representative no longer has sufficient proof of authority to act on behalf of the protected person; or*
 - b. Clear and proper identification of the protected person; and*
 - 2. If the protected person's representative requested the removal of the security freeze on behalf of the protected person, the protected person's representative shall provide to the consumer reporting agency both of the following:*
 - a. Clear and proper identification of the protected person and the representative; and*
 - b. Sufficient proof of authority to act on behalf of the protected person.*
- (b) Within thirty (30) days after receiving a request to remove a security freeze placed pursuant to subsection (2) of this section, the consumer reporting agency shall remove the security freeze for the protected person.*
- (8) A consumer reporting agency may charge a fee for each placement or removal of a security freeze on a protected person's record or credit report. The fee may not exceed ten dollars (\$10).*
- (9) Notwithstanding subsection (8) of this section, a consumer reporting agency may not charge any fee under this section if:*
- (a) The protected person's representative provides a copy of a police report to the consumer reporting agency alleging that the protected person has been a victim of an offense involving identity theft; or*
 - (b) A request for the placement or removal of a security freeze is for a protected person who is under sixteen (16) years of age at the time of the request and the consumer reporting agency has a credit report pertaining to the protected person.*
- (10) A consumer reporting agency may remove a security freeze for a protected person or may delete a protected person's record if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected person or the protected person's representative.*
- (11) Any person who willfully fails to comply with any requirement imposed under this section with respect to any consumer is liable to that consumer in an amount equal to the sum of:*
- (a) Any actual damages sustained by the consumer as a result of the failure;*
 - (b) Any liquidated damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000);*
 - (c) Any punitive damages as the court may allow; and*
 - (d) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.*
- (12) Any person, other than the named individual or individuals in the report, who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or requests the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.*
- (13) This section does not apply to a protected person's credit report or record provided to:*
- (a) A federal, state, or local governmental entity, including a law enforcement agency, or court, or their agents or assigns;*
 - (b) A private collection agency for the sole purpose of assisting in the collection of an existing debt of the consumer who is the subject of the consumer report requested;*
 - (c) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed*

purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

- (d) *A person, for the purposes of prescreening as provided by the federal Fair Credit Reporting Act, 15 U.S.C. secs. 1681 et seq.;*
- (e) *A consumer reporting agency for the purposes of providing a consumer with a copy of his or her own report on his or her request;*
- (f) *A child support enforcement agency;*
- (g) *A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple credit reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency;*
- (h) *A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;*
- (i) *A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution;*
- (j) *Any person or entity using a consumer report in preparation for a civil or criminal action, or an insurance company in investigation of a claim; or*
- (k) *1. Any insurance company for setting or adjusting a rate or underwriting for property and casualty insurance purposes; or*
2. Any consumer reporting agency database or file which consists solely of consumer information concerning, and used solely for:
 - a. Criminal record information;*
 - b. Personal loss history information;*
 - c. Fraud prevention or detection;*
 - d. Employment screening; or*
 - e. Tenant screening.*

➔Section 2. This Act takes effect January 1, 2018.

Signed by Governor March 27, 2017.

CHAPTER 120

(SB 32)

AN ACT relating to the tracking of drug convictions.

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

➔Section 1. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.
- (2) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth who is licensed, permitted, or otherwise authorized to prescribe or dispense a controlled substance to a person in Kentucky shall report to the Cabinet for Health and Family Services the data required by this section, except that reporting shall not be required for:
 - (a) A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;
 - (b) A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, dispensed by a practitioner at a facility licensed by the cabinet, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours; or
 - (c) A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections, where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) National drug code of the drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county

attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

- (c) A state-operated Medicaid program in conformity with subsection (7) of this section;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who requests information and certifies that the requested information is for the purpose of:
 - 1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; or
 - 2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
 - (f) The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
 - (h) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
 - 2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
 - 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - 4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
 - (i) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or
 - (j) A medical examiner engaged in a death investigation pursuant to KRS 72.026.
- (7) The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:
- (a) Appropriately managed by a single outpatient pharmacy or primary care physician; or

- (b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:
- (a) A person specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection (6)(b) of this section authorized to receive data or a report if the persons specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;
 - (d) If a state licensing board as defined in KRS 218A.205 initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and
 - (e) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- (12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- (13) (a) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.
- (b) The pilot project shall:
1. Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 2. Study the use of an interactive system that includes a relational data base with query capability.

- (c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.
- (17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.
- (18) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:
 - (a) An error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient; and
 - (b) Beginning July 1, 2013, a requirement that data be reported to the system under subsection (3) of this section within one (1) day of dispensing.
- (19) *Before July 1, 2018, the Administrative Office of the Courts shall forward data regarding any felony or Class A misdemeanor conviction that involves the trafficking or possession of a controlled substance or other prohibited acts under KRS Chapter 218A for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2018, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received into the system so that a query by patient name indicates any prior drug conviction.*

Signed by Governor March 27, 2017.

CHAPTER 121

(SB 62)

AN ACT relating to health savings accounts.

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

➔Section 1. KRS 427.010 is amended to read as follows:

- (1) The following personal property of an individual debtor resident in this state is exempt from execution, attachment, garnishment, distress or fee-bill: All household furnishings, jewelry, personal clothing and ornaments not to exceed three thousand dollars (\$3,000) in value; tools, equipment and livestock, including poultry, of a person engaged in farming, not exceeding three thousand dollars (\$3,000) in value; one (1) motor

vehicle and its necessary accessories, including one (1) spare tire, not exceeding in the aggregate two thousand five hundred dollars (\$2,500) in value; professionally prescribed health aids for the debtor, or a dependent of the debtor; *and funds deposited in a health savings account as described in Section 223 of the Internal Revenue Code of 1986.*

- (2) Except as provided in subsection (3) of this section and KRS 427.050, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed the lesser of either:
 - (a) Twenty-five percent (25%) of his disposable earnings for that week, or
 - (b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable. In the case of earnings for any pay period other than a week, the multiple of the federal minimum hourly wage equivalent to that set forth in paragraph (b) of this subsection as prescribed by regulation by the federal secretary of labor shall apply.
- (3) The restrictions of subsection (2) of this section do not apply in the case of:
 - (a) Any order of any court for the support of any person.
 - (b) Any order of any court of bankruptcy under Chapter 13 of the Bankruptcy Code.
 - (c) Any debt due for any state or federal tax.
- (4) Notwithstanding any other provision of law, no property upon which a debtor has voluntarily granted a lien shall, to the extent of the balance due on the debt secured thereby, be subject to the provisions of this chapter or be exempt from forced sale under process of law.

Signed by Governor March 27, 2017.

CHAPTER 122

(SB 75)

AN ACT relating to campaign finance.

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

➔Section 1. KRS 121.180 is amended to read as follows:

- (1) (a) ~~Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in paragraph (1)1. or 2. of this subsection. A separate form shall be required for each primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.~~
- (b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee *chair* ~~chairman~~ files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be

accepted or expended in excess of ~~three~~~~one~~ thousand dollars ~~(\$3,000)~~~~(\$1,000)~~ in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph ~~((1))~~1. or 2. of **paragraph (k) of** this subsection. A separate form shall be required for each primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee **chair**~~chairman~~ indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

- ~~(b)~~~~(e)~~ For a primary ~~election~~, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph ~~(c)~~~~((d))~~ of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, except as provided in subparagraph 2. of paragraph ~~(c)~~~~((d))~~ of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee **chair**~~chairman~~ shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.
- ~~(c)~~~~((d))~~ 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner ~~shall~~~~may exercise the remaining option or may~~ file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. **To revoke the request for an exemption**~~If a candidate or slate of candidates elects to exercise a different option~~, the candidate or slate of candidates shall file the appropriate form with the ~~registry~~~~officer who received the filing papers of the candidate or slate of candidates~~ not later than the deadline for filing a revocation.
2. A candidate for any city, **urban-county government, charter county government, consolidated local government, unified local government**, or county office or for any school board office, who is exempted from ~~some or all~~ campaign finance reporting requirements pursuant to paragraph ~~(a)~~~~or (b)~~ of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- ~~(d)~~~~((e))~~ Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph ~~(c)~~~~((d))~~ of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph ~~(c)~~~~((d))~~ of this subsection.
- ~~(e)~~~~((f))~~ Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed ~~a~~~~either~~ request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph ~~(c)~~~~((d))~~ of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph ~~(c)~~~~((d))~~ of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph ~~(c)~~~~((d))~~ of this subsection.

~~(f)(g)~~ Except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph ~~(c)(d)~~ of this subsection.

~~(g)(h)~~ Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph ~~(c)(d)~~ of this subsection.

~~(h)(i)~~ If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph ~~(c)(d)~~ of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

~~(i)(j)~~ A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph ~~(a) or (b)~~ of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner ~~shall~~~~may exercise the remaining exemption option or may~~ file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, a person intending to be a write-in candidate who **revokes a request for exemption**~~elects to exercise a different exemption option~~ shall file the appropriate form with the **registry**~~officer who received the initial request for exemption~~ not later than fifteen (15) days after the filing deadline for the regular or special election.

~~(j)(k)~~ Except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose **chair**~~chairman~~ has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner~~and no new request for exemption has been executed~~.

~~(k)(4)~~ 1. Except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), ~~(d), or (i)(b), (e), or (j)~~ of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph ~~(c)(d)~~ of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), ~~(d), or (i)(b), (e), or (j)~~ of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the

employer and occupation of each contributor. If the contributor is self-employed, the name under which he *or she* is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) *In addition to the reporting requirements in paragraph (a) of this subsection, the state executive committee of a political party that has established a building fund account under Section 4 of this Act shall make a full report, upon a prescribed form, to the registry, of all contributions received from any source, and expenditures authorized, incurred, or made, since the date of the last report for the separate building fund account, including:*
1. *For each contribution of any amount made by a corporation, the name and business address of the corporation, the date of the contribution, the amount contributed, and a description of the major business conducted by the corporation;*
 2. *For other contributions in excess of one hundred dollars (\$100), the full name and address of the contributor, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;*
 3. *The total amount of cash contributions received during the reporting period; and*
 4. *A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.*
- (c) *The ~~[This]~~ report required by paragraph (a) of this subsection shall be made on a semiannual basis and shall be received by ~~[in the hands of]~~ the registry ~~[or postmarked]~~ by January 31 and by July 31, and any report received by the registry within five (5) days after each filing deadline shall be deemed timely filed. The January report shall cover the period from July 1 to December 31. The July report shall cover the period from January 1 to June 30 ~~[within five (5) days after the thirtieth day following the primary and regular elections]~~. If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The report required by paragraph (b) of this subsection relating to a state executive committee's building fund account shall be received by the registry within five (5) days after the close of each calendar quarter. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be received by ~~[in the hands of]~~ the registry by January 31, and if received by the registry within five (5) days after the filing deadline it shall be deemed timely filed ~~[or postmarked within five (5) days after the thirtieth day following each regular election]~~.*
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he *or she* is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. of this paragraph or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he *or she* is doing business shall be listed;
 4. The total amount of cash contributions received during the reporting period; and
 5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. Candidates as defined in KRS 121.015(8), slates of candidates, campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
 2. *All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the sixtieth day preceding a regular election, including all previous contributions and expenditures;*
 3. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the ~~thirtieth~~^{thirtieth} day preceding an election, including all previous contributions and expenditures;
 - 4.~~3.~~ All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 - 5.~~4.~~ All reports to the registry shall be received by the registry *on or before each filing deadline, and any report received by the registry within five (5) days after each filing deadline shall be deemed timely filed.*
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(a)~~(b)~~ of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election, *and any report received by the registry within five (5) days after each filing deadline shall be deemed timely filed.*
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he *or she* is doing business, and the amount of

the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he *or she* is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

- (6) Each permanent committee, except a federally registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
 - (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 - (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he *or she* is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be ***received on or before each filing deadline, and any report received by the registry within [postmarked or received not later than] five (5) days after each filing deadline shall be deemed timely filed.***
- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry ~~[or postmarked not later than ten (10) days after]~~ ***by December [November] 1 of each year, and any statement received by the registry within five (5) days after December 1 of each year shall be deemed timely filed,*** until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate or a slate of candidates shall file the supplemental annual report ~~[not later than ten (10) days after]~~ ***by December [November] 1 of that year or at the end of the first calendar quarter of that year after the candidate or slate of candidates files nomination papers for the next year's primary or regular election, and any report received by the registry within five (5) days after the applicable filing deadline shall be deemed timely filed.*** All contributions shall be subject to KRS 121.150.
- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
 - (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check,

money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

- (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed ~~two~~~~one~~ hundred dollars ~~(\$200)~~~~(\$100)~~ per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.
- (11) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.
- (b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.
- (c) If adequate and appropriate agency funds are available to implement this subsection, the option of electronic reporting shall be made available by the registry to all candidates, committees, registered fundraisers, and persons making independent expenditures, in addition to those candidates, slates of candidates, and campaign committees that are required to electronically report under KRS 121.120(6)(h).
- (12) Filers specified in subsection (11) of this section ~~may~~~~shall also continue to~~ file required campaign finance reports in paper *or electronic* format ~~until the registry deems it is no longer necessary~~. *If the candidate or slate of candidates chooses to file a report in electronic format, the electronic* ~~paper~~ copy shall ~~continue to~~ be the official version for audit and other legal purposes.
- (13) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.
- (14) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.
- (15) All electronic or online filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.

- (16) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.
- (17) No candidate is obligated to file any reports electronically, except for those candidates, slates of candidates, and campaign committees that are required to electronically report under KRS 121.120(6)(h).
- (18) (a) On each paper and electronic form that it supplies for the reports required under subsections (2), (3), and (6) of this section, the registry shall include an entry reading, "No change since last report."
- (b) If a person or entity that is required to report under subsection (2), (3), or (6) of this section has received no money, loans, or other things of value from any source since the date of its last report and has not authorized, incurred, or made any expenditures since that date, the person or entity may check or otherwise designate the entry that reads, "No change since last report." A person or entity designating this entry in a report shall state the balance carried forward from the last report but need not specify receipts or expenditures in further detail.

➔Section 2. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.
- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, caucus campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.
- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of **one hundred**~~fifty~~ dollars **(\$100)**~~(\$50)~~, and all anonymous contributions in excess of **one hundred**~~fifty~~ dollars **(\$100)**~~(\$50)~~ shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of ~~two~~**one** thousand dollars **(\$2,000)**~~(\$1,000)~~ in the aggregate in any one (1) election. Anonymous contributions in excess of ~~two~~**one** thousand dollars **(\$2,000)**~~(\$1,000)~~ in the aggregate which are received in any one (1) election shall escheat to the state.
- (4) No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of **one hundred**~~fifty~~ dollars **(\$100)**~~(\$50)~~ in the aggregate from each contributor in any one (1) election. No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of **one hundred**~~fifty~~ dollars **(\$100)**~~(\$50)~~ in the aggregate in any one (1) election to a candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) ***Except as provided in subsection (22) of this section,*** no candidate, slate of candidates, campaign committee,~~political issues committee,~~ nor anyone acting on their behalf, shall accept a contribution of more than ~~two~~**one** thousand dollars **(\$2,000)**~~(\$1,000)~~ ***as indexed for inflation every odd-numbered year using the preceding year's percent increase in the non-seasonally adjusted annual average Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average, All Items, for that year as published by the United States Bureau of Labor Statistics and rounded to the nearest hundred dollar,*** from any person, permanent committee, or contributing organization in any one (1) election. No person, permanent committee, or

contributing organization shall contribute more than ~~two[one]~~ thousand dollars ~~(\$2,000)[(\$1,000)]~~ *as indexed for inflation every odd-numbered year using the preceding year's percent increase in the non-seasonally adjusted annual average Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average, All Items, as published by the United States Bureau of Labor Statistics and rounded to the nearest hundred dollar*, to any one (1) candidate, campaign committee, ~~political issues committee,~~ nor anyone acting on their behalf, in any one (1) election.

- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.
- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than ~~two[one]~~ thousand ~~[five hundred]~~ dollars ~~(\$2,000)[(\$1,500)]~~ *as indexed for inflation every odd-numbered year using the preceding year's percent increase in the non-seasonally adjusted annual average Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average, All Items, for that year as published by the United States Bureau of Labor Statistics and rounded to the nearest hundred dollar*, to ~~a[all]~~ permanent ~~committee[committees]~~ ~~or[and]~~ contributing ~~organization[organizations]~~ in any one (1) year.
- (11) (a) No person shall contribute more than ~~five thousand[two thousand five hundred]~~ dollars ~~(\$5,000)[(\$2,500)]~~ to the state executive committee of a political party ~~and its subdivisions and affiliates~~ in any one (1) year. *The contribution limit in this paragraph shall not apply to a contribution designated exclusively for a state executive committee's building fund account established under Section 4 of this Act.*
 - (b) *No person shall contribute more than five thousand dollars (\$5,000) to a subdivision or affiliate of a state political party in any one (1) year.*
 - (c) No person shall contribute more than ~~five[two]~~ thousand ~~[five hundred]~~ dollars ~~(\$5,000)[(\$2,500)]~~ to a caucus campaign committee in any one (1) year. ~~Contributions a person makes to any executive committee other than the state executive committee in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.]~~
- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf. No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf.
- (13) ~~[No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.]~~
- ~~(14)~~ Subject to the provisions of subsection ~~(17)[(18)]~~ of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(14)[(15)]~~ Subject to the provisions of subsection ~~(17)[(18)]~~ of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

~~(15)~~~~(16)~~ Subject to the provisions of subsection ~~(17)~~~~(18)~~ of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

~~(16)~~~~(17)~~ The provisions of subsections ~~(13)~~~~(14)~~ and ~~(14)~~~~(15)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsection ~~(15)~~~~(16)~~ of this section shall apply only to those candidates or slates of candidates in a special election which shall be conducted subsequent to January 1, 1993.

~~(17)~~~~(18)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party, **and for repayment of debts and obligations owed by the campaign**. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

~~(19)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars (\$50,000).

~~(20)~~~~(18)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly, **except to the extent that the contribution is designated to a state executive committee's building fund account established under Section 4 of this Act**.

~~(19)~~~~(21)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

~~(20)~~~~(22)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

~~(23)~~ (a) A candidate or a slate of candidates for elective public office shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate or a slate of candidates in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate or a slate of candidates in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's or a slate of candidates' campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate or a slate of candidates may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate or a slate of candidates may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

~~(c) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.~~

~~(21)(24)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

(22) *It shall be permissible for a married couple to make a contribution with one (1) check that reflects the combined individual contribution limits of each individual spouse per election, as set forth in subsection (6) of this section, for all elections in a calendar year and the following shall be required to be written on the check:*

(a) *The signatures of both spouses on the signature line of the check; and*

(b) *The designation of each contribution amount and the election or elections to which they apply shall be memorialized on the memo line of the check.*

➔Section 3. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use such funds other than in support of the party's candidates in a general election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, and expenditures of the funds so remitted. In addition, the official shall, **by January 31** ~~within thirty (30) days after~~ each ~~year~~ **general election**, forward to the Registry of Election Finance a report of:

(a) The unexpended and unobligated balance of such remitted funds; and

(b) An itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of fifty dollars (\$50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance may annually audit the accounts and records of receipts and expenditures of funds in the amount of one thousand five hundred dollars (\$1,500) or less that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall annually audit the accounts and records of receipts and expenditures of funds in the amount of more than one thousand five hundred dollars (\$1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall report the results of each audit conducted to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) *A state executive committee of a political party may establish a building fund account. The registry shall promulgate administrative regulations, in accordance with KRS Chapter 13A, necessary to implement this section.*

(2) *A building fund account established under this section may be used for expenditures related to the purchase, construction, maintenance, renovation, and repair of the state executive committee's main*

headquarters facility. Permissible expenditures from a building fund account shall be limited to payments for or purchases of:

- (a) *Land;*
 - (b) *Leases and property taxes;*
 - (c) *Appliances and fixtures;*
 - (d) *Utilities, pest control, lawn care, security, and trash removal;*
 - (e) *Equipment for Internet, telephone, cable or satellite television, or other communications services;*
 - (f) *Building construction, expansion, or renovation;*
 - (g) *Major and minor repairs to the state executive committee's main headquarters facility, including but not limited to the facility's roof, foundation, and structure, and to the facility's plumbing, HVAC, and electrical systems; and*
 - (h) *The services of contractors, subcontractors and other building design or construction professionals related to the state executive committee's main headquarters facility.*
- (3) *A building fund account established under this section shall not be used to advocate for or against the election or defeat of a clearly identified candidate or a ballot measure or for issue advocacy.*
- (4) *Prohibited expenditures from a building fund account include:*
- (a) *Money or in-kind contributions to a federal, state, or local candidate or slate of candidates;*
 - (b) *Money or in-kind contributions to a state or local committee; and*
 - (c) *Money or in-kind contributions to advocate for or against the election or defeat of a clearly identified candidate or a ballot measure or for issue advocacy.*
- (5) *Contributions solicited and accepted by a state executive committee for a building fund account established under this section shall be designated as being exclusively for the state executive committee's building fund account.*
- (6) *The state executive committee shall advise all potential contributors to a building fund account established under this section that funds contributed will be used exclusively for the building fund account and will not be used to advocate for or against the election or defeat of a clearly identified candidate or a ballot measure or for issue advocacy.*
- (7) *For any building fund account established under this section, a state executive committee shall establish a separate bank account into which all contributions shall be deposited, and no other contributions shall be commingled with building fund account contributions.*
- (8) *A state executive committee shall report all contributions to and expenditures from a building fund account to the Registry of Election Finance on a quarterly basis, as required by Section 1 of this Act.*

➔Section 5. KRS 121.025 is amended to read as follows:

No corporation authorized to do business in this state or in another state, and no officer or agent of a corporation on its behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city, or district officer in this state, or pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from a corporation with the understanding or agreement, either direct or implied, that he *or she* will contribute to any such candidate, or on his *or her* behalf, any part or all of such compensation, towards the nomination or election of such candidate. *The prohibitions in this section shall not prevent a corporation from making a monetary contribution to a state executive committee's building fund account established under Section 4 of this Act.*

➔Section 6. KRS 121.035 is amended to read as follows:

- (1) No corporation organized or authorized to do business in this state or in another state shall, by itself or by or through an officer, agent, attorney, or employee, subscribe, give, procure or furnish, or afterwards reimburse or compensate in any way any person who has subscribed, given, procured, or furnished, any money, privilege, favor, or other thing of value to any political or quasi-political organization, or any officer or member thereof,

to be used by such organization for the purpose of aiding, assisting, or advancing any candidate for public office in this state in any way whatever.

- (2) No officer, agent, attorney, or employee of any corporation organized or authorized to do business in this state or in another state, or person acting for or representing any such corporation, shall disburse, distribute, pay out, or in any way handle any money, funds, or other thing of value that belongs to or has been or is being furnished by any such corporation or any officer, agent, attorney, or employee thereof to be used or employed in any way for the purpose of aiding, assisting, or advancing any candidate for public office in this state in any way whatever.
- (3) Nothing in this section shall be construed to prohibit a corporation from making contributions in support of a constitutional amendment, a public question which appears on the ballot, or position on an issue of public importance, ***or to prohibit a corporation from making contributions to a state executive committee's building fund account established under Section 4 of this Act.*** Nothing in this chapter shall be construed to prohibit a not-for-profit corporation, which does not derive a substantial portion of its revenue from for-profit corporations, from making independent expenditures.

➔Section 7. KRS 6.767 is amended to read as follows:

- (1) ***For purposes of this section, "accept" means the date a contribution is postmarked, if mailed, or the date of the hand delivery, if the contribution is hand-delivered.***
- (2) A member of the General Assembly, candidate for the General Assembly, or his or her campaign committee shall not accept a campaign contribution from a legislative agent. Violation of this provision is ethical misconduct.
- ~~(3)~~~~(2)~~ A member of the General Assembly, candidate for the General Assembly, or his or her campaign committee shall not, during a regular session of the General Assembly, accept a campaign contribution from an employer of a legislative agent, or from a permanent committee as defined in KRS 121.015. This subsection shall not apply to candidates for the General Assembly in a special election held during a regular session of the General Assembly. Violation of this provision is ethical misconduct.
- ~~(4)~~~~(3)~~ It shall be a complete defense under this section if the legislator, candidate, or his or her campaign committee receives a campaign contribution from a legislative agent or, during a regular session, from an employer or from a permanent committee, which fact is unknown to the legislator, candidate, or committee at the time of receipt, if the legislator, candidate, or his or her campaign committee either returns the contribution within thirty (30) days of receipt, and within fourteen (14) additional days makes that fact, together with the name of the contributor, amount of the contribution, and the date of return or payment known, in writing to the commission. It shall also be a defense if a legislator, candidate, or his or her campaign committee receives a campaign contribution from a legislative agent whose name does not yet appear on the list of legislative agents and their employers furnished to the Legislative Research Commission if the legislator, candidate, or his or her campaign committee returns the campaign contribution within thirty (30) days of the Legislative Research Commission's receipt of the list bearing the name of the legislative agent and all employers and makes the written disclosure to the commission required in this subsection. The time periods shall be tolled upon the filing with the commission of a request for an advisory opinion regarding the campaign contribution. Upon the issuance of the opinion or decision not to render an opinion, the time period shall resume.

Signed by Governor March 27, 2017.

CHAPTER 123

(SB 81)

AN ACT relating to death-in-the-line-of-duty benefits for the Department of Military Affairs.

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

➔Section 1. KRS 61.315 is amended to read as follows:

- (1) As used in this section:

- (a) "Police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state;
 - (b) "Firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations; and
 - (c) "Emergency medical services personnel" means any paid or volunteer emergency medical services personnel who is certified or licensed pursuant to KRS Chapter 311A and who is employed directly by, or volunteering directly for, any:
 - 1. County;
 - 2. City;
 - 3. Fire protection district created under KRS 75.010 to 75.260; or
 - 4. Emergency ambulance service district created under KRS 108.080 to 108.180;to provide emergency medical services.
- (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, any police officer of a public institution of postsecondary education appointed pursuant to KRS 164.950, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty under Title 10 or 32 of the United States Code who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. The spouse of any emergency medical services personnel whose death occurs on or after November 1, 2015, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:
- (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
 - (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.
- If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.
- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, any metropolitan or urban-county correctional officers with the power of a peace officer pursuant to KRS 446.010, or any jailers or deputy jailers, including but not limited to defining when one has died in line of duty. Administrative hearings

promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including but not limited to defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to emergency medical services personnel, including but not limited to which employees or volunteers qualify for coverage and which circumstances constitute death in the line of duty.
- (7) ***The Department of Military Affairs shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to National Guard or Reserve component members, including but not limited to defining which National Guard or Reserve Component members qualify for coverage and which circumstances constitute death in the line of duty.***
- ~~(8)(7)~~ The estate of anyone whose spouse or surviving children would be eligible for benefits under subsection (2) of this section, and the estate of any regular member of the United States Armed Forces who names Kentucky as home of record for military purposes whose death occurs as a direct result of an act in the line of duty, shall be exempt from all probate fees, including but not limited to those established by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or imposed under KRS 24A.185, 64.012, and 172.180.
- ~~(9)(8)~~ The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, emergency medical services personnel, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- ~~(10)(9)~~ Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.
- ~~(11)(10)~~
 - (a) For the purposes of this section, if a firefighter dies as a result of cancer, the death shall be a direct result of an act in the line of duty if the firefighter:
 1. Was a firefighter for at least five (5) consecutive years;
 2. Developed one (1) or more of the cancers listed in paragraph (b) of this subsection which caused the firefighter's death within ten (10) years of separation from service as a firefighter;
 3. Did not use tobacco products for a period of ten (10) years prior to the diagnosis of cancer;
 4. Was under the age of sixty-five (65) at the time of death;
 5. Was not diagnosed with any cancer prior to employment as a firefighter; and
 6. Was exposed while in the course of firefighting to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program, and the carcinogen is reasonably associated with one (1) or more of the cancers listed in paragraph (b) of this subsection.
 - (b) This section shall apply to the following cancers:
 1. Bladder cancer;
 2. Brain cancer;
 3. Colon cancer;
 4. Non-Hodgkin's lymphoma;
 5. Kidney cancer;
 6. Liver cancer;
 7. Lymphatic or haematopoietic cancer;
 8. Prostate cancer;

- 9. Testicular cancer;
 - 10. Skin cancer;
 - 11. Cervical cancer; and
 - 12. Breast cancer.
- (c) 1. The provisions of this subsection creating an entitlement to the line of duty death benefits shall apply exclusively to this section and shall not be interpreted or otherwise construed to create either an express or implied presumption of work-relatedness for any type of claim filed pursuant to KRS Chapter 342.
2. This paragraph is intended to provide clarification regarding the sole and exclusive application of this subsection to only the benefits available under this section and shall not be used as a bar or other type of limitation to impair or alter the rights and ability of a claimant to prove work-relatedness under KRS Chapter 342 or other laws.

Signed by Governor March 27, 2017.

CHAPTER 124

(SB 83)

AN ACT relating to fish and wildlife.

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

➔Section 1. KRS 150.390 is amended to read as follows:

- (1) No person shall possess, take, pursue, or attempt to take or pursue or otherwise molest any wild elk, deer, wild turkey, or bear in any manner contrary to any provisions of this chapter or its regulations.
- (2) No person shall use a dog to chase or molest wild elk or deer in any manner, at any time, or at any place. Any conservation officer, peace officer, sheriff, or constable may take necessary steps to stop, prevent, or bring under control any dog or dogs found chasing or molesting wild elk or deer at any time.
- (3) The department shall establish by administrative regulation the conditions under which depredation permits may be issued without cost to persons suffering damage from wild elk to allow the taking of wild elk.
- (4) If Kentucky's wild elk population reaches a level that will sustain limited hunting, the department may establish by administrative regulations the conditions and permits that would allow the controlled taking of wild elk.
- (5) *The department shall identify areas where deer and elk pose a significant threat to agriculture or to health and human safety from automobile accidents and may take necessary steps to reduce the deer and elk population in those areas. Methods to reduce the deer and elk population may include but are not limited to the following:*
 - (a) *Special hunts;*
 - (b) *Increasing the doe harvest; and*
 - (c) *Working with the Transportation Cabinet to make vegetation along highways unpalatable to deer and elk.*

Signed by Governor March 27, 2017.

CHAPTER 125

(SB 104)

AN ACT relating to prospective retirement benefits and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 6.500 TO 6.577 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "bona fide promotion or career advancement":*
 - (a) *Means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final five (5) annual years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and*
 - (b) *Does not include any circumstance in which a legislator participating in the Legislators' Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems.*
- (2)
 - (a) *For members retiring on or after January 1, 2018, the plan shall, for each of the retiring member's last five (5) annual years of service in the General Assembly or with any employer participating in any of the state-administered retirement systems, identify any annual year in which the creditable compensation used to calculate benefits in the Legislators' Retirement Plan increased at a rate of ten percent (10%) or more annually over the immediately preceding annual year's creditable compensation.*
 - (b) *Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for an annual year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding annual year shall not be included in the creditable compensation used to calculate the member's monthly pension benefits. If the creditable compensation for a specific annual year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring member's monthly pension benefits, then no reduction in creditable compensation shall occur for that annual year. Reductions to creditable compensation as provided by this paragraph shall include any creditable compensation used to calculate the retiring members' benefits, including creditable compensation earned in another state-administered retirement system.*
 - (c) *If the creditable compensation of the retiring member is reduced as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.*
- (3) *In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.*
- (4) *Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.*
- (5) *The Judicial Form Retirement System board of trustees shall determine whether increases in creditable compensation during the last five (5) annual years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.*
- (6) *This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.*

➔SECTION 2. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section:*
 - (a) *"Bona fide promotion or career advancement":*
 1. *Means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final sixty (60) months preceding retirement or a*

change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member, including any circumstance when a member is elected or appointed to another court within the Court of Justice; and

2. *Does not include any circumstance where a judge or justice participating in the Judicial Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems; and*
- (b) *"Year" has the same meaning as in KRS 21.345(3).*
- (2) (a) *For members retiring on or after January 1, 2018, the plan shall identify any consecutive year utilized in determining the member's final compensation in which the member's compensation increased at a rate of ten percent (10%) or more over the member's compensation in the immediately preceding year.*
- (b) *Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in compensation for a year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's compensation from the immediately preceding year shall not be used in the calculation of the member's final compensation for the purposes of determining the member's monthly pension benefit under KRS 21.400.*
- (c) *If the member's final compensation is reduced for the purposes of determining the member's pension benefit under KRS 21.400 as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.*
- (3) *In order to ensure the prospective application of the potential reduction in pension benefits as provided in subsection (2) of this section, only the compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.*
- (4) *Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement or to compensation used in accordance with KRS 61.680(7) in which the member does not have sixty (60) months of service in the Judicial Retirement Plan.*
- (5) *The Judicial Form Retirement System board of trustees shall determine whether increases in compensation during the final sixty (60) months preceding retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.*
- (6) *This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.*

➔Section 3. KRS 61.598 is amended to read as follows:

- (1) For purposes of this section, "bona fide promotion or career advancement":
 - (a) Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
 - (b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.
- (2) (a) *For employees retiring from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System on or after January 1, 2018, the systems shall, for each of the retiring employee's last five (5) fiscal years of employment, identify any fiscal year in which the creditable compensation increased at a rate of ten percent (10%) or more annually over the immediately preceding fiscal year's creditable compensation. The employee's creditable compensation in the fiscal year immediately prior to the employee's last five (5) fiscal years of employment shall be utilized to compare the initial fiscal year in the five (5) fiscal year period.*

- (b) *Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for a fiscal year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the employee's creditable compensation from the immediately preceding fiscal year shall not be included in the creditable compensation used to calculate the retiring employee's monthly retirement allowance. If the creditable compensation for a specific fiscal year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring employee's monthly retirement allowance, then no reduction in creditable compensation shall occur for that fiscal year.*
- (c) *If the creditable compensation of the retiring employee is reduced as provided by paragraph (b) of this subsection, the retirement systems:*
 - 1. *Shall refund the employee contributions and interest attributable to the reduction in creditable compensation; and*
 - 2. *Shall not refund the employer contributions paid but shall utilize those funds to pay down the unfunded liability of the pension fund in which the retiring employee participated.*
- (3) *In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring employee on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring employee prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.*
- (4) *Subsection (2) of this section shall not apply to:*
 - (a) *A bona fide promotion or career advancement as defined by subsection (1) of this section;*
 - (b) *A lump-sum payment for compensatory time paid to an employee upon termination of employment;*
 - (c) *A lump-sum payment made pursuant to an alternate sick leave program under KRS 78.616(5) that is paid to an employee upon termination of employment;*
 - (d) *Increases in creditable compensation in a fiscal year over the immediately preceding fiscal year, where in the immediately preceding fiscal year the employer reported the employee as being on leave without pay for any reason, including but not limited to sick leave without pay, maternity leave, leave authorized under the Family Medical Leave Act, and any period of time where the employee received workers' compensation benefit payments that were not reported to the plan as creditable compensation;*
 - (e) *Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime hours worked while serving as a participating employee under any state or federal grant, grant pass-through, or similar program that requires overtime as a condition or necessity of the employer's receipt of the grant; and*
 - (f) *Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime performed during a state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky.*
- (5)
 - (a) *For employees retiring on or after January 1, 2014, but prior to July 1, 2017, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems~~and the system may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section~~.*
 - (b) *Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from this subsection.*
 - (c) *Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this subsection. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.*

- (d) *For any additional actuarial costs charged to the employer under this subsection, the systems shall allow the employer to pay the costs without interest over a period of one (1) year from the date of receipt of the employer's final invoice.*
- (6)~~(3)(a)~~ The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement *and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.*
- (7) ~~[(b) Lump sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from the provisions of this section.~~
- ~~(4) Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this section. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.~~
- ~~(5) Any employer who disagrees with a determination made by the system in accordance with this section regarding whether an increase in compensation constitutes a bona fide promotion or career advancement for purposes of subsection (5) of this section may request a hearing and appeal the decision in accordance with KRS 61.645(16). The systems shall not charge interest, or consider the costs due under this section as delinquent contributions, during the pendency of the hearing process and appeal.~~
- ~~(6) For any additional actuarial costs charged to the employer under this section, the systems shall allow the employer to pay the costs over a period, not to exceed one (1) year, without interest.]~~
- (8) *For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky Retirement Systems shall provide a means for employers to separately report the specific exceptions provided in subsection (4) of this section within the reporting system utilized by the employers for making employer reports under Section 10 of this Act, KRS 61.675, and Section 11 of this Act. The Kentucky Retirement Systems shall continually provide communication, instructions, training, and educational opportunities for employers regarding how to appropriately report exemptions established by subsection (4) of this section.*
- (9) *This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 16.583 and 61.597.*

➔SECTION 4. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 6.500 to 6.577 and 21.345 to 21.580:

- (1) *Subject to the provisions of this section, any member who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, may in lieu of the benefits he or she is currently eligible to receive under the plans, elect to receive the benefits and rights provided to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to Section 5 of this Act;*
- (2) *The election provided by this section shall be made in writing and on a form prescribed by the Judicial Form Retirement System board;*
- (3) *For each member who makes an election provided by this section:*
- (a) *Any service credit the member has accrued prior to January 1, 2014, shall be considered as service credit earned on or after January 1, 2014, for purposes of determining benefits under KRS 6.500 to 6.577 and 21.345 to 21.580;*
- (b) *On the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account as provided by Section 5 of this Act and considered part of the member's accumulated account balance;*
- (c) *On the member's effective election date, an employer pay credit as provided by Section 5 of this Act shall be added to the member's accumulated account balance for each month the member contributed to the Legislators' Retirement Plan or the Judicial Retirement Plan prior to his or her effective election date; and*

- (d) *Interest credits as provided by Section 5 of this Act shall only be applied for periods occurring on or after the member's effective election date;*
- (4) *Before accepting an election provided by this section, the Judicial Form Retirement System board shall provide the member with information detailing the potential results of the member's election;*
- (5) *An election made pursuant to this section shall be irrevocable; and*
- (6) (a) *A member of the Legislators' Retirement Plan or the Judicial Retirement Plan shall not be eligible to make an election prescribed by this section until the Judicial Form Retirement System receives a favorable private letter ruling from the Internal Revenue Service regarding this section.*
- (b) *If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.*
- (c) *The Judicial Form Retirement System may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section.*

➔Section 5. KRS 21.402 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement Plan begins on or after January 1, 2014, ***or a member making an election pursuant to Section 4 of this Act***, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 6.520 and 21.400. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by KRS 6.505(1)(d)2.b. and 21.360(1)(a)3.b.;
 - (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the plan.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the plan shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
 - 1. Four percent (4%); plus
 - 2. Seventy-five percent (75%) of the plan's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "plan's geometric average net investment return":
 - 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 - 2. Shall be expressed as a percentage and based upon the plan in which the member has an account.

- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
 - (a) Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system; or
 - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
 - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement plan in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 21.420(8)(b); or
 - (c) Take a refund of his or her accumulated account balance as provided by KRS 21.460.
- (8) The board of the Judicial Form Retirement System shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The Judicial Form Retirement System may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.
- (9) The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, *except for those members making an election pursuant to Section 4 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852:

- (1) *Subject to the provisions of this section, any member who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to January 1, 2014, may in lieu of the benefits he or she is currently eligible to receive from the systems, elect to receive the benefits and rights provided to members who began participating in the systems on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to Section 7 of this Act for members in nonhazardous duty positions or pursuant to Section 8 of this Act for members in hazardous duty positions, as applicable;*
- (2) *The election provided by this section shall be made in writing and on a form prescribed by the Kentucky Retirement Systems board;*
- (3) *For each member who makes an election provided by this section:*
 - (a) *Any service credit the member has accrued prior to January 1, 2014, shall be considered as service credit earned on or after January 1, 2014, for purposes of determining benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;*
 - (b) *On the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account as provided by Section 7 or 8 of this Act, as applicable, and considered part of the member's accumulated account balance;*
 - (c) *On the member's effective election date, an employer pay credit as provided by Section 7 or 8 of this Act, as applicable, shall be added to the member's accumulated account balance for each month the*

member contributed to the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to his or her effective election date; and

- (d) *Interest credits as provided by Section 7 or 8 of this Act, as applicable, shall only be applied for periods occurring on or after the member's effective election date;*
- (4) *Before accepting an election provided by this section, the Kentucky Retirement Systems board shall provide the member with information detailing the potential results of the member's election;*
- (5) *An election made pursuant to this section shall be irrevocable;*
- (6) (a) *A member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall not be eligible to make an election prescribed by this section until the Kentucky Retirement Systems receives a favorable private letter ruling from the Internal Revenue Service regarding this section.*
- (b) *If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.*
- (c) *The Kentucky Retirement Systems may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section; and*
- (7) *This section shall not apply to retirees who were reemployed on or after September 1, 2008, and who are not eligible to participate in the systems during reemployment.*

➔Section 7. KRS 61.597 is amended to read as follows:

- (1) A member of the Kentucky Employees Retirement System or County Employees Retirement System who is not participating in a hazardous duty position as provided by KRS 61.592, whose participation in the systems begins on or after January 1, 2014, ***or a member making an election pursuant to Section 6 of this Act***, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 61.559 and 61.595. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Kentucky Employees Retirement System and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
 - (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
 1. Four percent (4%); plus
 2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.

- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
 - (d) For purposes of this subsection, "system's geometric average net investment return":
 - 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 - 2. Shall be expressed as a percentage and based upon the system in which the member has an account.
 - (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
- (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or
- (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
- (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
- (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System or the County Employees Retirement System prior to January 1, 2014, ***except for those members making an election pursuant to Section 6 of this Act.***

➔Section 8. KRS 16.583 is amended to read as follows:

- (1) A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System in a hazardous duty position covered by this section, or a member of the County Employees Retirement System in a hazardous duty position covered by this section, whose participation begins on or after January 1, 2014, ***or a member making an election pursuant to Section 6 of this Act,*** shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 16.576 and 16.577. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:

- (a) Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
 - (b) An employer pay credit of seven and one-half percent (7.5%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
- 1. Four percent (4%); plus
 - 2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "system's geometric average net investment return":
- 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 - 2. Shall be expressed as a percentage and based upon the system in which the member has an account.
- (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
- (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another state-administered retirement system; or
 - (b) At any age, provided he or she has earned twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:

- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
 - (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to January 1, 2014, *except for those members making an election pursuant to Section 6 of this Act.*

➔Section 9. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in *Section 4 of this Act*, KRS 21.345(1), 21.345(3) to (6), 21.357, 21.360(1), 21.370 to 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, 21.540, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2)
 - (a) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a), except that the salary used to determine final compensation, if applicable, shall be based on the creditable compensation in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.
 - (b) For members contributing on or after June 20, 2005 but prior to January 1, 2014: Upon retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits as provided in KRS 61.680(2)(a) and in the same manner as for the other retirement systems using the highest salary regardless of the system in which it was earned. For purposes of this paragraph, "retirement" means the month in which the member elects to begin receiving benefits or benefits become payable due to the member's death.
 - (c) A member who has an account in the Legislators' Retirement Plan and the Judicial Retirement Plan may combine his service in both plans for purposes of determining:
 - 1. Eligibility and the amount of benefits; and
 - 2. Final compensation, provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014.
 - (d) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, may retire at the completion of twenty-seven (27) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).
 - (e) For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.
- (3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

➔Section 10. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation and qualified domestic relations orders, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.599;
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Member's account, confidential, as provided for by KRS 61.661;
- (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (15) Correction of errors in records, as provided for by KRS 61.685;
- (16) Maximum disability benefit, as provided for by KRS 61.607;
- (17) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (18) Employer contributions, as provided for by KRS 61.565;
- (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (21) Refund of contributions, conditions, as provided by KRS 61.625;
- (22) Hospital and medical insurance plan, as provided by KRS 61.702;
- (23) Death benefit, as provided by KRS 61.705;
- (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (25) Service credit, Armed Forces, as provided by KRS 61.555;
- (26) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (27) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (31) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (32) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637;
- (33) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610;~~{and}~~
- (34) Employer payment of increases in creditable compensation *and adjustments to creditable compensation* during the last five (5) years of employment as provided by KRS 61.598; *and*
- (35) ***Benefit election for members of the Kentucky Retirement Systems who began participating prior to January 1, 2014, as provided by Section 6 of this Act.***

➔Section 11. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Members' account, confidential, as provided for by KRS 61.661;
- (30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (31) Maximum disability benefit, as provided for by KRS 61.607;
- (32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (33) Employer contributions, as provided for by KRS 61.565;
- (34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- (36) Death benefit, as provided by KRS 61.705;

- (37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (41) Death or disability from a duty-related injury as provided in KRS 61.621;
- (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (44) Hybrid cash balance plan provided to new members as provided by KRS 61.597;
- (45) Employer payment of increases in creditable compensation *and adjustments to creditable compensation* during the last five (5) years of employment as provided by KRS 61.598;
- (46) Calculation of retirement allowance, as provided by KRS 61.599;~~and~~
- (47) Voluntary and involuntary cessation of participation by a participating agency as provided by KRS 61.522;
and
- (48) *Benefit election for members of the Kentucky Retirement Systems who began participating prior to January 1, 2014, as provided by Section 6 of this Act.*

➔Section 12. If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions of this Act.

➔Section 13. Whereas participating employers are facing various legal and financial issues regarding pension-spiking charges and prospective retirement benefit election is a matter of significant importance to state employees, state agencies, and the taxpayers of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 27, 2017.

CHAPTER 126

(SB 126)

AN ACT relating to the final compensation calculation for state and county employees entering the retirement systems on or after September 1, 2008.

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

➔Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;

- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;
- (9) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. ***If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;***
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
 - (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
 - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:
 - (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee

to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583; and
- (40) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.

➔Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency,

temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time. For employees who begin participating on or after August 1, 2016, creditable compensation shall exclude nominal fees paid for services as a volunteer;
- (14) "Final compensation" of a member means:
 - (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5)

fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, ***which may contain less than twelve (12) months of service credit,*** shall be ***added until the number of months in the final compensation calculation is at least sixty (60) months***~~used~~; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. ***If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;***
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;

- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;

- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
 - (a) The date upon which the member began participating in the system as provided in KRS 61.543; or
 - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and

- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date; and
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection.

➔Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on

paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time. Creditable compensation shall not include training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin participating on or after August 1, 2016, creditable compensation shall exclude nominal fees paid for services as a volunteer;

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, ***which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months***~~used~~; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. ***If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months***;

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (38) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date; and
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection.

Signed by Governor March 27, 2017.

CHAPTER 127

(SB 135)

AN ACT relating to nonprofit health service corporations.

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

➔Section 1. KRS 304.32-130 is amended to read as follows:

The commissioner shall not issue or renew a certificate of authority to any corporation operating or proposing to operate a nonprofit hospital, medical-surgical, dental, or other health service plan unless:

- (1) The subscription or membership certificates which the corporation offers to its subscribers or members, together with a schedule of the dues and fees to be paid by subscribers or members, or the formula for developing dues or fees, has been filed with the commissioner in accordance with~~[the provisions of]~~ KRS 304.32-160.
- (2) The schedule of the dues and fees to be paid by subscribers or members is one which will:
 - (a) Enable the corporation to meet ***its current and ongoing obligations***~~[the expenses of the hospital, medical surgical, and other health services which are made available]~~ to its subscribers or members without impairing the guarantee fund required by KRS 304.32-140;
 - (b) ***Is established and justified in accordance with those actuarially sound factors deemed relevant by the commissioner;***
 - (c) ***Not be excessive, inadequate, or unfairly discriminatory in relation to the services offered; and***
 - (d) ***Enable the corporation to achieve and maintain the highest insurance industry financial strength ratings***~~[, and one which will not result in an accumulation of excess reserves over and above reserves established for claims in process, unreported and unbilled claims, retroactive cost adjustment to the purveyors of hospital, medical surgical, and other health services and membership dues or fees received in advance but not yet earned].~~

Signed by Governor March 27, 2017.

CHAPTER 128

(SB 136)

AN ACT relating to in-state tuition for Kentucky National Guard members.

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

➔Section 1. KRS 164.2844 is amended to read as follows:

Notwithstanding KRS 164.020(8):~~[;]~~

- (1) The governing board of a Kentucky public university may adopt a tuition policy whereby any veteran of the Armed Forces of the United States or National Guard who is eligible for Post-9/11 GI Bill benefits or any member of a Reserve component who enrolls as a student in the university as a non-Kentucky resident is charged no more than the maximum tuition reimbursement provided under the Post-9/11 GI Bill to public universities for eligible Kentucky residents; ***and***
- (2) ***Beginning with the 2017-2018 academic year, an active member of the Kentucky National Guard who enrolls as a student in a Kentucky public university as a non-Kentucky resident shall be considered a Kentucky resident for tuition purposes.***

Signed by Governor March 27, 2017.

CHAPTER 129

(SB 139)

AN ACT relating to livestock.

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

➔Section 1. KRS 100.111 is amended to read as follows:

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

- (1) "Administrative official" means any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and, if delegated, any provision of any housing or building regulation or any other land use control regulation;
- (2) "Agricultural use" means the use of:
 - (a) A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public. ***For purposes of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;***
 - (b) Regardless of the size of the tract of land used, small farm wineries licensed under KRS 243.155;
 - (c) A tract of at least five (5) contiguous acres used for the following activities involving horses:
 1. Riding lessons;
 2. Rides;
 3. Training;
 4. Projects for educational purposes;
 5. Boarding and related care; or
 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
 - (d) A tract of land used for the following activities involving horses:
 1. Riding lessons;
 2. Rides;
 3. Training;
 4. Projects for educational purposes;
 5. Boarding and related care; or
 6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004;

- (3) "Board" means the board of adjustment unless the context indicates otherwise;
- (4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city, county, or consolidated local government;
- (5) "Commission" means planning commission;
- (6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;
- (7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:
 - (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
 - (b) A statement of the specific conditions which must be met in order for the use to be permitted;
- (8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;
- (9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;
- (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code, and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;
- (11) "Legislative body" means the chief body of the city, consolidated local government, urban-county government, charter county government, or unified local government with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;
- (12) "Mayor" means the chief elected official of the city, consolidated local government, urban-county government, charter county government, or unified local government, whether the official designation of his office is mayor or otherwise;
- (13) "Nonconforming use or structure" means an activity or a building, sign, structure, or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;
- (14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;
- (15) "Planning unit" means any city, county, consolidated local government, urban-county government, charter county government, or unified local government, or any combination of cities, counties, or parts of counties, or parts of consolidated local governments engaged in planning operations;
- (16) "Plat" means the map of a subdivision;
- (17) "Political subdivision" means any city, county, consolidated local government, urban-county government, charter county government, or unified local government;
- (18) "Several" means two (2) or more;
- (19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;
- (20) "Street" means any vehicular way;
- (21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

- (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census or in an urban-county government or consolidated local government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;
- (23) "Unit" means planning unit; and
- (24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

➔Section 2. KRS 132.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:
 - (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
 - (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
 - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
 - (c) The value of improvements to existing nonresidential property;
 - (d) The value of new residential improvements to property;

- (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
- (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
- (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
- (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
- (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;

(9) "Agricultural land" means:

- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
- (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
- (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

- (a) Relative percentages of tillable land, pasture land, and woodland;
- (b) Degree of productivity of the soil;
- (c) Risk of flooding;
- (d) Improvements to and on the land that relate to the production of income;
- (e) Row crop capability including allotted crops other than tobacco;
- (f) Accessibility to all-weather roads and markets; and
- (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;

- (16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.
- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
 - (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
 - (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
 - (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (18) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- (20) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;
- (21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
 - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
 - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:
 - 1. Direct or indirect familial relationship;
 - 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - 3. Reorganization of a business entity that was potentially liable;
- (22) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base,

allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;

- (23) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and
- (c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (24) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;
- (25) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;~~and~~
- (26) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.
- (b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee; *and*
- (27) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 3. KRS 148.001 is amended to read as follows:

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

- (1) "Department" means the Department of Parks.
- (2) "Commissioner" means the commissioner of parks.
- (3) "Commission" means the State Property and Buildings Commission.
- (4) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***
- (5) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.
- ~~(6)(5)~~ "Sanctuary" means a place of refuge where wildlife is maintained and protected from depredation and destruction.
- ~~(7)(6)~~ "Wildlife" means all living things that are neither human nor domesticated, including but not limited to mammals, reptiles, amphibians, birds, fishes, crustaceans, mollusks, trees, shrubs, vines, wildflowers, and nonflowering plants.

➔Section 4. KRS 150.010 is amended to read as follows:

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

- (1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline, or sport fishing trotline;
- (2) "Buy" includes offering to buy, acquiring, or possessing through purchase, barter, exchange, or trade;
- (3) "Commercial trotline" means a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;
- (4) "Commission" means the Department of Fish and Wildlife Resources Commission;
- (5) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;
- (6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

- (7) "Device" means any article, instrument, or equipment of whatever nature or kind which may be used to take wild animals, wild birds, or fishes;
- (8) "Department" means the Department of Fish and Wildlife Resources;
- (9) "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;
- (10) "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;
- (11) "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;
- (12) "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;
- (13) "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;
- (14) "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;
- (15) "Jugging" means a means of fishing by which a single baited line is attached to any floating object;
- (16) "License" means any document issued by the department authorizing its holder to perform acts authorized by the license and includes any other form of authorization in addition to or in lieu of an actual document which may be authorized by the department by administrative regulation;
- (17) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;***
- (18) "Migratory shore or upland game birds" means all species of migratory game birds except waterfowl;
- ~~(19)~~~~(18)~~ "Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky; rock bass or goggle-eye; trout; crappie; walleye; sauger; pike; members of the striped bass family; and muskellunge;
- ~~(20)~~~~(19)~~ "Navigable waters" means any waters within this state under lock and dam;
- ~~(21)~~~~(20)~~ "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for thirty (30) days immediately prior to his application for a license;
- ~~(22)~~~~(21)~~ "Permit" means any document issued by the department authorizing its holder to perform acts authorized by the permit and includes tags which shall be affixed to wildlife or devices as evidence of holding a permit and includes any other form of authorization in addition to or in lieu of an actual document authorized by the department by administrative regulation;
- ~~(23)~~~~(22)~~ "Possess" means the act of having or taking into control;
- ~~(24)~~~~(23)~~ "Prescribed by the department" means established by an administrative regulation;
- ~~(25)~~~~(24)~~ "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;
- ~~(26)~~~~(25)~~ "Protected wildlife" means all wildlife except those species declared unprotected by administrative regulations promulgated by the department;
- ~~(27)~~~~(26)~~ "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts, and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county, or municipal agency;
- ~~(28)~~~~(27)~~ "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;
- ~~(29)~~~~(28)~~ "Raw fur" means a hide, fur, or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling, or coloring of the pelt of the animal shall not be considered processing;
- ~~(30)~~~~(29)~~ "Administrative regulation" means a written regulation promulgated, pursuant to KRS Chapter 13A, by the commissioner with the approval of the commission;
- ~~(31)~~~~(30)~~ "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for thirty (30) days immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational

institution as full-time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

- ~~(32)~~~~(31)~~ "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner, or further interfere in any manner with any officer in the discharge of his duties;
- ~~(33)~~~~(32)~~ "Rough fish" means all species of fishes other than those species designated by administrative regulation as sport fishes;
- ~~(34)~~~~(33)~~ "Sell" includes offering to sell, having or possessing for sale, barter, exchange, or trade;
- ~~(35)~~~~(34)~~ "Setline" means a line to which is attached one (1) single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole, or other stationary object, on the bank of a stream or impoundment;
- ~~(36)~~~~(35)~~ "Snagging" means the taking of fish or other aquatic animals through the use of a hand-held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;
- ~~(37)~~~~(36)~~ "Sports fishing trotline" means a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches;
- ~~(38)~~~~(37)~~ "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture wildlife in any way and any lesser act designed to lure, attract, or entice for these purposes; and to place, set, aim, or use any device, animal, substance, or agency which may reasonably be expected to accomplish these acts; or to attempt to do these acts or to assist any other person in the doing of or the attempt to do these acts;
- ~~(39)~~~~(38)~~ "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;
- ~~(40)~~~~(39)~~ "Transport" means to carry, move, or ship wildlife from one place to another;
- ~~(41)~~~~(40)~~ "Waterfowl" means all species of wild ducks, geese, swans, mergansers, and coots; and
- ~~(42)~~~~(41)~~ "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian, or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched, or born in captivity and including any part, product, egg, or offspring thereof, protected or unprotected by this chapter.

➔Section 5. KRS 151.100 is amended to read as follows:

As used in KRS 151.110 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

- (1) The word "authority" shall mean the Water Resources Authority of Kentucky;
- (2) The word "cabinet" shall mean the Energy and Environment Cabinet;
- (3) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;
- (4) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;
- (5) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;
- (6) The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the secretary;
- (7) The word "floodplain" shall mean the area in a watershed that is subject to inundation;
- (8) The word "watershed" shall mean all the area from which all drainage passes a given point downstream;

- (9) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;
- (10) The word "water resources project" or "project" shall mean any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the Commonwealth and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures;
- (11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;
- (12) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
 - (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;
- (13) "Embankment dam" shall mean any dam constructed of excavated natural materials or of industrial waste materials;
- (14) "Gravity dam" shall mean a dam constructed of concrete or masonry that relies on its weight for stability;
- (15) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;
- (16) "Secretary" shall mean the secretary of the Energy and Environment Cabinet;
- (17) "Authorized representative" shall mean an individual specifically authorized by the secretary to act in his behalf;
- (18) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;{
~~and~~}
- (19) "Owner" shall mean any person who owns an interest in, controls, or operates a dam; *and*
- (20) *"Livestock" shall mean cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.*

➔Section 6. KRS 154.1-010 is amended to read as follows:

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

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- (4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;
- (5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;

- (6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs, including but not limited to engineering, architectural, legal, and accounting fees which are necessary for the project;
- (9) "Local and regional economic development interest" means any local business or economic development interest, including but not limited to chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;
- (10) "Industrial entity" means any corporation, limited liability company, partnership, limited partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;
- (11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, including repair, restoration, or conversion of tobacco warehouses, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;
- (12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including but not limited to secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- (13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- (14) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- (15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- (16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- (17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- (18) "Person" means an individual, partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- (19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- (20) (a) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise.
(b) "Project" ~~includes~~ ~~shall include~~ but is not limited to agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce

energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. ***For purposes of this paragraph, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

- (c) Except for airport-related facilities and tax increment financing projects approved under Subchapter 30 of this chapter, "project" ~~does~~^{shall} not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;
- (21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;
- (23) "Reclamation development plan" means a plan submitted to the Energy and Environment Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- (24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- (25) "State" means the Commonwealth of Kentucky; and
- (26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, the limited liability entity tax imposed by KRS 141.0401, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

➔Section 7. KRS 176.051 is amended to read as follows:

- (1) The Department of Highways shall keep all state rights-of-way free of all of the following, which are noxious weeds and invasive plants:
 - (a) The species of grass, *Sorghum halepense*, commonly known as Johnson grass;
 - (b) The species of weed commonly known as giant foxtail;
 - (c) The thistles *Cirsium arvense* and *Carduus nutans*, commonly known as Canada thistles and nodding thistles, respectively;
 - (d) Multiflora rose;
 - (e) Kudzu;
 - (f) Poison hemlock;
 - (g) Marestail;
 - (h) Amur honeysuckle;
 - (i) Japanese knotweed; and
 - (j) Common teasel.
- (2) Upon written request, the department shall give priority to and shall cooperate with any abutting property owner engaged in a program of eradication by eradicating the noxious weeds and invasive plants identified in subsection (1) of this section, or in administrative regulations promulgated pursuant to subsection (4) of this

section, from abutting state rights-of-way. The department shall take steps to eradicate this grass and these weeds or thistles by the use of chemicals or any other means found to be effective by the department.

- (3) The Department of Highways shall inform property owners of the availability of the eradication program. In carrying out this responsibility the department shall, no later than the first week in March of every year, advertise in each county, pursuant to the provisions of KRS Chapter 424 that the program is available. The department shall stipulate in the advertisement the place and manner in which an interested property owner may make a written request for inclusion in the program. The department shall also promote awareness of the availability of the eradication program through the use of electronic media and the Cooperative Extension Service.
- (4) (a) The Department of Highways may by administrative regulation add noxious weeds and invasive plants to or delete them from the list of noxious weeds and invasive plants enumerated in subsection (1) of this section. In making a determination regarding a noxious weed or invasive plant, the department may consider the following:
 1. The plant's ability to directly or indirectly injure or cause damage to crops, livestock, poultry, or other interests of agriculture;
 2. The plant's impact on the public health;
 3. The plant's impact on the environment; and
 4. The level of difficulty associated with controlling or eradicating the plant.
- (b) The department shall review this administrative regulation at least once every four (4) years.
- (c) ***For purposes of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 8. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but shall include low-speed vehicles as defined in this section.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
- (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional

vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

- (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
- (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
 - (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. "Motorcycle" shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:

- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry; and
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.
- (19) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 9. KRS 186.675 is amended to read as follows:

- (1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents (\$4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents (\$19.50).
- (2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of:
 - (a) Boats;
 - (b) Luggage;
 - (c) Personal effects;
 - (d) Farm products, farm supplies, or farm equipment;
 - (e) All-terrain vehicles as defined in KRS 189.010(24);
 - (f) Wildlife as defined in KRS 150.010(42)~~(41)~~ that the owner or operator of the trailer has obtained while hunting; and
 - (g) Firearms or other supplies used in conjunction with hunting wildlife.
- (3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents (\$9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents (\$4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar (\$1).
- (4) Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars (\$98). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars (\$3).

➔Section 10. KRS 189.222 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable

classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

- (a) Height, thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
 - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) Except as provided for in paragraph (f) of this subsection, truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same;
 - (f) A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate or parkway exit.
- (2) In addition to the provisions of KRS 189.2226, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:
- (a) Meats or agricultural crop products originating from a farm to first market;
 - (b) Livestock or poultry from their point of origin to first market. *As used in this paragraph and in paragraph (d) of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;*
 - (c) Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or
 - (d) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.
- (3) Vehicles registered under KRS 186.050(4)(b) that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section may exceed the gross weight provisions set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- (4) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles.
- (5) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete

shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

- (6) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- (7) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- (8) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- (9) Except as otherwise provided in this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
 - (a) Width, one hundred two (102) inches, including any part of the body or load;
 - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- (10) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- (11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

➔Section 11. KRS 211.015 is amended to read as follows:

- (1) As used in KRS 211.005 to 211.380, unless the context requires otherwise:
 - (a) "Cabinet" means the Cabinet for Health and Family Services;
 - (b) "Farmstead" means a farm dwelling, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land outside the corporate limits of a municipality:
 - 1. Used for the production of livestock, livestock products, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, and wheat. *For purposes of this paragraph, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;* or
 - 2. Where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
 - (c) "Secretary" means the secretary of the Cabinet for Health and Family Services; and

- (d) "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.
- (2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:
 - (a) "Department" means Department for Public Health;
 - (b) "Commissioner" means the commissioner of the Department for Public Health;
 - (c) "Committee" means the Hemophilia Advisory Committee; and
 - (d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

➔Section 12. KRS 217.544 is amended to read as follows:

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

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant, or as a functioning agent in a spray adjuvant;
- (2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;
- (3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;
- (4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;
- (5) "Board" means the Pesticide Advisory Board;
- (6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;
- (7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue;
- (8) "Device" means any instrument or contrivance other than a firearm which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man and other bacteria, virus, or other microorganisms on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately therefrom;
- (9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having received, deliver or offer to deliver pesticides in this state;
- (10) "Environment" includes water, air, land, and all plants and man and other animals living therein and the interrelationships which exist among these;
- (11) "EPA" means the United States Environmental Protection Agency;
- (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended;
- (13) "Fungi" means all nonchlorophyll-bearing thallophytes; that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;
- (14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under the authority of sec. 25(c)(2) of FIFRA or by the department under this chapter;
- (15) "Imminent hazard" means a situation which exists when the continued use of a pesticide would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the United States Department of Interior under Pub. L. 91-135 of the United States Congress;
- (16) "Inert ingredient" means an ingredient which is not an active ingredient;
- (17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide and, when the pesticide contains arsenic in any form, a statement of the percentage of total and water-soluble arsenic, each stated as elemental arsenic;

- (18) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as, for example, spiders, mites, ticks, centipedes, and wood lice, also nematodes and other invertebrates which are destructive, constitute a liability, and may be classed as pests;
- (19) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or to any of its containers or wrappers;
- (20) "Labeling" means the label and other written, printed, or graphic matter:
- (a) On the pesticide or device, or any of its containers or wrappers;
 - (b) Accompanying the pesticide or device at any time or referring to it in any other media used to disseminate information to the public; and
 - (c) To which reference is made on the label or in the literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, the Departments of Agriculture and Interior, the Department of Health, Education and Welfare, and other similar federal institutions, the College of Agriculture, University of Kentucky, Kentucky Agricultural Experiment Station, Cabinet for Health and Family Services, Energy and Environment Cabinet, or other agencies of this state or other states when such agencies are authorized by law to conduct research in the field of pesticides;
- (21) "Land" means all land and water areas, including air space and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto, or situated thereon, fixed or mobile, including any used for transportation;
- (22) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;***
- (23) "Misbranded" means a pesticide is misbranded if:
- (a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - (b) It is an imitation of or is distributed under the name of another pesticide;
 - (c) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under section 3(d) of FIFRA are adequate to protect health and the environment;
 - (d) The labeling does not contain a statement of the use classification under which the product is registered by EPA;
 - (e) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of FIFRA, is adequate to protect health and the environment;
 - (f) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of the purchase; provided, that the ingredient statement may appear prominently on another part of the container pursuant to section 2(q) 2(A) (i) (ii) of FIFRA if the size and form of the container makes it impractical to place it on that part of the retail package which is presented or displayed under customary conditions of purchase;
 - (g) Any word, statement, or other information required by KRS 217.542 to 217.630 or FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared to other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
 - (h) The label does not bear the name, brand, or trademark under which the pesticide is distributed;
 - (i) The label does not bear the net weight or measure of the content;

- (j) The label does not bear the name and address of the manufacturer, registrant, or person for whom manufactured; and
- (k) The label does not bear the EPA registration number assigned to each establishment in which the product is produced and the EPA number assigned to the pesticide, if required by regulation under FIFRA;
- ~~(24)~~~~(23)~~ "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms;
- ~~(25)~~~~(24)~~ "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;
- ~~(26)~~~~(25)~~ "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department may declare to be a pest;
- ~~(27)~~~~(26)~~ "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and any substance or mixture of substances intended to be used as a spray adjuvant;
- ~~(28)~~~~(27)~~ "Plant regulator" means any substance or mixture of substances, intended through physiological actions, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;
- ~~(29)~~~~(28)~~ "Protect health and the environment" means protection against any unreasonable adverse effects on the environment;
- ~~(30)~~~~(29)~~ "Registrant" means a person who has registered any pesticide pursuant to the provisions of KRS 217.542 to 217.630;
- ~~(31)~~~~(30)~~ "Restricted-use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department;
- ~~(32)~~~~(31)~~ "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;
- ~~(33)~~~~(32)~~ "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;
- ~~(34)~~~~(33)~~ "Weed" means any plant which grows where not wanted; and
- ~~(35)~~~~(34)~~ "Wildlife" means all living things that are neither human, domesticated, nor as defined in KRS 217.542 to 217.630, pests, including but not limited to mammals, birds, and aquatic life.

➔Section 13. KRS 217B.040 is amended to read as follows:

For the purposes of this chapter, unless the context requires otherwise:

- (1) "Pest" means:
 - (a) Any insect, snail, slug, rodent, nematode, fungus, weed; or
 - (b) Any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department declares to be a pest;
- (2) "Pesticide" means:
 - (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest;

- (b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; or
 - (c) Any substance or mixture of substances intended to be used as a spray adjuvant, once they have been mixed with an EPA registered product;
- (3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission;
 - (4) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues;
 - (5) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;
 - (6) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example beetles, bugs, bees, wasps, and flies, and includes other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example spiders, mites, ticks, centipedes, and wood lice, and also nematodes and other worms, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests;
 - (7) "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;
 - (8) "Fertilizer" means any substance containing one (1) or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products exempted by administrative regulation;
 - (9) "Weed" means any plant which grows where not wanted;
 - (10) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, and may also be called nemas or eelworms;
 - (11) "Snails or slugs" include all harmful mollusks;
 - (12) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;
 - (13) "Equipment" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in the land, but shall not include any pressurized hand-sized household device used to apply any pesticide;
 - (14) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by administrative regulation of the department;
 - (15) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices, and contrivances and machinery appurtenant to or situated on them, fixed or mobile, including any used for transportation;
 - (16) "Pesticide applicator" means any individual employed or supervised by a pesticide operator to apply pesticides. The term does not include trainees;
 - (17) "Pesticide operator" means any individual who owns or manages a pesticide application business that is engaged in the business of applying pesticides upon the lands of another;
 - (18) "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision, or aid, or recommends the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests;

- (19) "Noncommercial applicator" means any individual employed by golf courses, municipal corporations, public utilities, or other governmental agencies making applications of pesticides to lands owned, occupied, or managed by his or her employer;
- (20) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests; including, but not limited to mammals, birds, and aquatic life;
- (21) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive, and, having received, deliver or offer to deliver any pesticides in this state excepting internal distribution within a company or organization;
- (22) "EPA" means the United States Environmental Protection Agency;
- (23) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or to any of its containers or wrappers;
- (24) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect of it, and which is in a package or container separate from that of the other pesticide with which it is to be used;
- (25) "Commissioner" means the Commissioner of the Department of Agriculture;
- (26) "Dealer" means any person that engages in the storage of bulk fertilizer or a restricted use pesticide for the purpose of redistribution or direct resale, or engages in the business of applying any pesticide to the lands of another. A "dealer" shall not include a manufacturer of a restricted use pesticide or a fertilizer who distributes his or her product solely to a dealer;
- (27) "Trainee" means an individual who has been employed by a dealer and is working under the direct on-the-job supervision of a licensed operator or applicator;
- (28) "Direct on-the-job supervision" means having a licensed operator or licensed applicator physically on site and directly supervising or training an individual in the application of a pesticide;
- (29) "Branch office" means any location of a dealer other than its designated principal place of business location, but does not include on-premises and off-premises bulk storage or receiving warehouses used solely for the purpose of customer order filling;
- (30) "Applicant" means a person applying for a license or registration under this chapter;
- (31) "Pesticide sales agent" means an individual who sells or distributes restricted use pesticides or an individual who sells and makes recommendations for the use or application of pesticides to the final user;
- (32) "Limited license" means a license that is issued by the department for noncommercial use, and shall be valid only when an individual is making applications of pesticides to lands owned, occupied, or managed by his or her employer;~~{and}~~
- (33) "Certified crop advisor" means an individual who has met the requirements of and has been certified by the Kentucky Certified Crop Advisor Board; **and**
- (34) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 14. KRS 224.71-100 is amended to read as follows:

As used in KRS 224.71-100 to 224.71-140, unless the context requires otherwise:

- (1) "Agriculture operation" means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land used for the production of livestock, livestock products, poultry, poultry products, milk, milk products, or silviculture products, or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, small grains, fruit and vegetables; or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government;
- (2) "Bad actor" means any person engaged in agriculture operations, who receives written notification of documented water pollution and of the agriculture water quality plan needed to prevent water pollution, and is

provided technical assistance, and financial assistance when possible, to implement the agriculture water quality plan, but still refuses or fails to comply with the requirements of the agriculture water quality plan;

- (3) "Best management practices" means, for agriculture operations, the most effective, practical, and economical means of reducing and preventing water pollution provided by the United States Department of Agriculture Soil Conservation Service and the Soil and Water Conservation Commission. Best management practices shall establish a minimum level of acceptable quality for planning, siting, designing, installing, operating, and maintaining these practices;
- (4) "Conservation plan" means a plan, provided by the United States Department of Agriculture Soil Conservation Service and the Soil and Water Conservation Commission, describing best land management practices, including an installation schedule and maintenance program, which when completely implemented, will improve and maintain soil, water, and related plant and animal resources of the land;
- (5) "Compliance plan" means a conservation plan containing best management practices developed for persons engaged in agriculture operations by the United States Department of Agriculture Soil Conservation Services, in conjunction with local conservation districts as required for eligibility under the Federal Food Security Act;
- (6) "Forest stewardship management plan" means a plan developed by the cabinet's Division of Forestry, the cabinet's Division of Conservation, the Department of Fish and Wildlife Resources, and the United States Department of Agriculture Soil Conservation Service which establishes practices for a person engaged in agriculture operations to manage forest lands in accordance with sound silvicultural principles;
- (7) "Conservation district" means a subdivision of state government organized pursuant to KRS Chapter 262 for the specific purpose of assisting persons engaged in agriculture operations and land users in solving soil and water resources problems, setting priorities for conservation work to be accomplished, and coordinating the federal, state, and local resources to carry out these programs;
- (8) "Groundwater" means subsurface water occurring in the zone of saturation beneath the water table and any perched water zones below the B soil horizon;
- (9) "Water priority protection region" means an area specifically delineated where water pollution from agriculture operations has been scientifically documented;
- (10) "Agriculture water quality plan" means a document incorporating the conservation plan, compliance plan, or forest stewardship management plan as necessary to prevent groundwater and surface water pollution from an agriculture operation;
- (11) "Surface water" means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters, marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Effluent ditches and lagoons used for waste treatment which are situated on property owned, leased, or under valid easement by a permitted discharger shall not be considered to be surface waters of the Commonwealth;~~[-and]~~
- (12) "Soil and Water Conservation Commission" means the commission created in KRS 146.090 for the purpose of administering the organization of conservation districts; *and*
- (13) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 15. KRS 224.71-110 is amended to read as follows:

- (1) The Agriculture Water Quality Authority is created and administratively attached to the cabinet. The authority shall be a multidiscipline peer group that shall evaluate, develop, and improve best-management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.
- (2) Within six (6) months of July 15, 1994, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following state agencies and organizations:
 - (a) Kentucky Association of Conservation Districts;
 - (b) Kentucky Department of Agriculture;

- (c) University of Kentucky College of Agriculture Cooperative Extension Service;
- (d) Kentucky Farm Bureau Federation, Inc.;
- (e) Division of Conservation, Energy and Environment Cabinet;
- (f) Division of Forestry, Energy and Environment Cabinet;
- (g) Kentucky Geological Survey; and
- (h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members at large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members at large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Energy and Environment Cabinet and the Division of Public Health Protection and Safety, Cabinet for Health and Family Services shall serve as ex officio members.

- (3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:
 - (a) Livestock *and poultry* ~~including but not limited to, beef, swine, dairy, poultry, and equine~~;
 - (b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;
 - (c) Pesticides, fertilizers, and other agricultural chemicals; and
 - (d) Farmstead issues.
- (4) The Agriculture Water Quality Authority shall have the following responsibilities:
 - (a) Review water quality data as available;
 - (b) Review university research on water quality and alternative best-management practices research;
 - (c) Evaluate the adoption and effectiveness of best-management practices, and modify best-management practice design standards to improve water quality protection practices;
 - (d) Develop by July 1, 1996, statewide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;
 - (e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;
 - (f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;
 - (g) Work with the United States Soil Conservation Service, United States Agriculture Stabilization and Conservation Service, and conservation districts to disseminate to agriculture operations the best-management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;
 - (h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and
 - (i) Establish procedures for modifications to be incorporated into statewide or regional agriculture water quality plans.

- (5) The cabinet's Division of Water shall approve or disapprove any statewide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a statewide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the statewide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the statewide and regional plans as set forth at KRS 224.71-120(8).

➔Section 16. KRS 247.010 is amended to read as follows:

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

- (1) "Board" means the State Board of Agriculture;
- (2) "Commissioner" means Commissioner of Agriculture;
- (3) "Department" means the Department of Agriculture; *and*
- (4) ***"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 17. KRS 249.350 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Commissioner" means that as defined in subsection (1) of Section 249.010 of the Kentucky Revised Statutes.
 - (b) "Department" means that as defined in subsection (2) of Section 249.010 of the Kentucky Revised Statutes.
 - (c) "Director" means that as defined in subsection (3) of Section 249.010 of the Kentucky Revised Statutes.
- (2) When it appears to the Commissioner that mosquitoes are present in any area of the state in sufficient numbers to warrant action, he shall conduct an immediate investigation of the causes thereof, and corrective measures necessary. The Commissioner shall undertake the control and elimination of mosquitoes in such area, utilizing whatever measures appear necessary so long as such methods in no wise damage the property of any person, and do not constitute a menace to the health of persons or livestock, ***including cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.***

➔Section 18. KRS 253.010 is amended to read as follows:

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

- (1) ~~["Animal" means any cattle, horse or mule;~~
- ~~(2) "Board" means the State Board of Agriculture;~~
- ~~(2) (3)~~ "Brand" means a permanent identification mark of which the letters, numbers and figures used are each three (3) inches or more in length or diameter and are humanly burned into the hide of a live animal with a hot iron or tattoo or caustic chemical substance and is to be considered in relation to its location on the animal and the term relates to both the mark and location;
- ~~(3) (4)~~ "Commissioner" means the Commissioner of Agriculture;
- ~~(4) (5)~~ "Livestock" means ***cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species***~~[any cattle, horse or mule]; and~~
- ~~(5) (6)~~ "Mark" means a permanent cut identification from the ear of a live animal.

➔Section 19. KRS 253.070 is amended to read as follows:

Any peace officer of the state may order funds derived from the sale of ***livestock***~~[an animal]~~ of questionable ownership held until ownership is established. If ownership is not established within thirty (30) days, the person holding the funds shall remit them to the board, which shall hold the funds for one (1) year. If the title to the

~~livestock~~~~[animal]~~ in question is not ascertained, then the funds shall be deposited in and become a part of the State Department of Agriculture trust fund.

➔Section 20. KRS 253.130 is amended to read as follows:

Any person who knowingly places upon any livestock a mark or brand which has not been registered with the board shall, if such mark or brand duplicates one that is registered with the board, be guilty of a misdemeanor. Such duplication shall be the use of a similar brand, used in any position on the ~~livestock~~~~[animal]~~ designated for the use of a registered brand, such as the neck, shoulder, rib or hip.

➔Section 21. KRS 253.990 is amended to read as follows:

Any person who knowingly alters or defaces the marks or brands on any ~~livestock~~~~[cattle]~~ not his own, without the consent of the owner, shall be fined not more than two hundred dollars (\$200), or imprisoned for not more than six (6) months, or both.

➔Section 22. KRS 256.010 is amended to read as follows:

(1) "Lawful fence" means:

- (a) A strong and sound fence, four (4) feet high, so close that cattle cannot creep through, made of rails, or plank, or wire and plank, or iron, or hedge, or stone or brick; or
- (b) A ditch three (3) feet deep and three (3) feet broad, with a hedge two (2) feet high or a rail, plank, stone, smooth or barbed wire or brick fence two and one-half (2 1/2) feet high on the margin of the ditch, if the fence is so close that cattle cannot creep through; or
- (c) A well-constructed gate four (4) feet high so close that cattle cannot creep through, made of wood slats and wood framing or made of metal slats and framing either or both, forming a part of a fence otherwise lawful and entering upon a public road or highway or entering upon a private or public road or passway over the land of another adjacent owner; or
- (d) A cattle guard not less than eight (8) feet wide and not less than six (6) feet across with a pit not less than two (2) feet six (6) inches deep with iron pipes not less than two (2) nor more than six (6) inches in diameter, iron rails or wooden rails not less than two (2) nor more than four (4) inches across the surface exposed to traffic, and not less than five (5) inches apart, constituting a part of a fence otherwise lawful and entering upon a public road or highway or entering upon a private or public road or passway over the land of another adjacent landowner. Provided, however, the definition or description of a lawful fence or cattle guard in this paragraph (d) shall not apply to the term "cattle guard" as used in KRS 256.150.

(2) As used in this chapter, unless the context requires otherwise, "railroad" means the person who owns a right-of-way and owns or controls a railroad in this state that has been in operation for five (5) years.

(3) *As used in this chapter, unless the context requires otherwise, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species.*

➔Section 23. KRS 256.030 is amended to read as follows:

- (1) When a division fence exists by agreement, acquiescence or compulsion, under this section or KRS 256.042, each party shall keep a lawful fence on his portion of the line. If one party fails to do so, the person failing shall be liable for all the damages to trees, grass, grain, crops, ~~livestock~~~~[cattle]~~ or land the other party may sustain from the trespassing of ~~livestock~~~~[cattle]~~ over the division fence at the point at which the party failing was bound to keep in repair.
- (2) Either party to a division fence shall be liable for damages in case his *or her* ~~livestock~~~~[cattle]~~ break through or pass over the fence at any point the other party is bound to keep in repair, only if the fence through which the ~~livestock~~~~[cattle]~~ pass is a lawful fence.
- (3) The party damaged shall have a lien on the ~~livestock~~~~[cattle]~~, as provided in KRS 256.080.

➔Section 24. KRS 256.080 is amended to read as follows:

If any ~~livestock~~~~[cattle]~~ enter into any land over or through a lawful fence, the owner or manager of the ~~livestock~~~~[cattle]~~ shall for the first trespass be liable to the owner or occupant of that land for ~~such~~ damages to his *or her* trees, grass, grain, crops, ~~livestock~~~~[cattle]~~ or land as he *or she* may have sustained by the entry of the ~~livestock~~~~[cattle]~~, and for every subsequent trespass by the ~~livestock~~~~[cattle]~~ of the same owner, double damages. After

giving the owner or manager of the ~~livestock~~~~[cattle]~~ at least five (5) days' notice, in writing, of the fact of two (2) previous breaches into the same ~~enclosure~~~~[inclosure]~~ by the ~~livestock~~~~[cattle]~~ of the same owner, the owner or occupant of the ~~enclosure~~~~[inclosure]~~ shall have a lien on the ~~livestock~~~~[cattle]~~ to indemnify him **or her** on account of any damages sustained by the third or any subsequent trespasses of those ~~livestock~~~~[cattle]~~ and may enforce his **or her** lien by action as in cases of a mortgage lien.

➔Section 25. KRS 256.090 is amended to read as follows:

If the owner or bailee of ~~livestock~~~~[cattle]~~ has a lawful fence, and his **or her** ~~livestock~~~~[cattle]~~ break through or over ~~the~~~~[his]~~ fence and upon the premises of another which are not ~~enclosed~~~~[inclosed]~~ by a lawful fence, he **or she** shall not be responsible for the first trespass, but shall be liable for all subsequent trespasses.

➔Section 26. KRS 261.200 is amended to read as follows:

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

- (1) "Department" means the Kentucky Department of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Board" means the State Board of Agriculture;
- (4) "Stockyard" means a facility regulated by:
 - (a) The United States Secretary of Agriculture under the Packers and Stockyards Act, 1921 (42 Stat. 159), as amended, and regulations promulgated under these statutes by the Secretary of Agriculture; or
 - (b) The department under this chapter and administrative regulations promulgated under this chapter.

A stockyard includes any place, establishment, or facility commonly known as a stockyard, which is conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens or other enclosures and their appurtenances, in which livestock are received, held, or kept for sale or shipment in commerce;

- (5) "Buying station" means a facility that is conducted, operated, or managed as a private livestock market that offers stockyard services;
- (6) "Stockyard services" means services or facilities furnished at a stockyard or buying station in connection with the:
 - (a) Receiving, buying, or selling of livestock in commerce on a commission basis or otherwise; or
 - (b) Marketing, feeding, watering, holding, delivering, shipping, weighing, or handling of livestock in commerce;
- (7) "Owner or operator" means persons responsible for the operation of each individual stockyard or buying station;
- (8) "Market agency" means a person engaged in the business of:
 - (a) Buying or selling livestock in commerce on a commission basis; or
 - (b) Furnishing stockyard services;
- (9) "Livestock dealer" means any person, not a market agency, who:
 - (a) Is regularly engaged in the business of buying or selling livestock in commerce, either on his or her own account or as the employee or agent of the vendor or purchaser; or
 - (b) Owns or operates a buying station; and
- (10) "Livestock" means cattle, sheep, swine, ~~or~~ goats, **horses, alpacas, llamas, buffaloes, or other animals of the bovine, ovine, porcine, caprine, equine or camelid species** ~~of all kinds and species.~~

➔Section 27. KRS 262.910 is amended to read as follows:

- (1) During the term of an easement, the restricted land shall be used solely for the production of crops, livestock and livestock products, and nursery and greenhouse products including the processing or retail marketing of these crops, livestock and livestock products, and nursery and greenhouse products if more than fifty percent (50%) of the processed or merchandised products are produced on the subject land, and for the raising and stabling of horses for commercial purposes. For the purposes of this section and administrative regulations

promulgated under its provisions, "crops, livestock and livestock products, and nursery and greenhouse products" include, but are not limited to:

- (a) Tobacco;
 - (b) Wheat, soybeans, corn, and all commercially-produced fruits and vegetables;
 - (c) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees, and flowers;
 - (d) Livestock and livestock products, including *cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species, poultry, milk, and eggs*~~[horses, cattle, poultry, milk, swine, and eggs]~~; and
 - (e) Aquatic plants and animals and their by-products.
- (2) (a) During the term of an easement the landowner and the landowner's assigns, agents, or leasees shall not perform, nor knowingly allow others to perform, any act on or affecting the restricted land that is inconsistent with the provisions of this section. The landowner shall be deemed to have authorized the PACE board to enforce these provisions.
- (b) Unless otherwise specified, the landowner shall not be required to take any action to restore the condition of the restricted land after any act of God or other event over which the landowner had no control.
- (c) Nothing in the PACE Program shall relieve the landowner of any obligation or restriction on the use of the property imposed by law.
- (d) The Commonwealth shall not locate landfills, sewage treatment plants, or other public service facilities that are not compatible with or complimentary to agricultural production on restricted lands.
- (3) (a) To retain the agricultural viability of the restricted land, the PACE board shall require, and the owner of the restricted land shall implement, a conservation plan approved by the soil and water conservation district. This plan shall be updated every ten (10) years and any time the basic farming operation conducted on restricted lands is changed. All farming operations shall be conducted substantially in accordance with the plan.
- (b) In addition to the requirements established by the soil and water conservation district, the conservation plan shall require that:
- 1. The use of the land for growing sod, nursery stock, and ornamental trees and shrubs does not remove excessive soil from the restricted land;
 - 2. The excavation of soil, sand, gravel, stone, or other materials for use in agricultural production on the restricted land is consistent with subsection (4)(h) of this section and is conducted in a location and manner that retains the viability of the restricted land for agricultural production; and
 - 3. The mining of minerals is consistent with subsection (4)(h) of this section and is conducted only through the use of methods which will not interfere with the viability of the restricted land for agricultural production.
- (4) The construction or reconstruction of any building or other structure, except those existing on the date of the easement or previously approved by the PACE board, is prohibited except in accordance with this subsection.
- (a) Existing fences may be repaired and replaced, and new fences may be built anywhere on the restricted land for purposes of reasonable and customary management of livestock and wildlife, without approval of the PACE board.
 - (b) New buildings and other structures and improvements to be used solely for agricultural purposes including the processing or sale of farm products predominantly grown or raised on the restricted land, but not including any dwelling or farm labor housing, may not be built on the restricted land without the advance approval of the PACE board. The PACE board shall give approval within a reasonable time, unless it determines that the proposed building, structure, or improvement would not be properly located or would significantly diminish the agricultural production capacity of the restricted land.
 - (c) All existing single-family residential dwellings may be repaired, reasonably enlarged, and replaced at their current locations without further permission of the PACE board. No new single-family residential dwellings may be built on the restricted land without the advance approval of the PACE board. The

PACE board shall give approval within a reasonable time, unless it determines that a proposed dwelling would not be properly located or would significantly diminish the agricultural production capacity of the restricted land.

- (d) The subdivision of the restricted land, whether by physical or legal process, is prohibited without the advance written approval of the PACE board. The PACE board shall give approval within a reasonable time, unless it determines that the proposed subdivision will diminish or impair the agricultural productivity of the restricted land.
 - (e) The granting of rights-of-way through restricted land for the installation of, transportation of, or use of, lines for water, sewage, electric, telephone, gas, oil or oil products is permitted. The term "granting of rights-of-way" includes the right to construct or install the lines. The construction or installation of utility lines other than the types stated in this paragraph is prohibited on the restricted land.
 - (f) No portion of the restricted land shall be paved or otherwise be covered with concrete, asphalt, gravel, or any other paving material, nor shall any road for access or other purposes be constructed, without the advance written approval of the PACE board. The PACE board shall give approval within a reasonable time, unless it determines that the proposed paving or covering of the soil, or the location of any road, will substantially diminish or impair the agricultural productivity of the restricted land.
 - (g) Trees may be cut to control insects and disease, to prevent personal injury and property damage, and for firewood and other domestic uses, including construction of permitted buildings and fences on the restricted land. Trees may also be cut to clear land for cultivation or use of livestock, but only if done in accordance with the conservation plan required by subsection (3) of this section. Any commercial timber harvesting on the restricted land shall be conducted on a sustainable yield basis and in substantial accordance with a forest management plan prepared by a competent professional forester.
 - (h) The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any method that disturbs the surface of the land, is prohibited without the advance written approval of the PACE board. The PACE board shall give approval within a reasonable time, unless it determines that the proposed mining or extraction will substantially diminish or impair the agricultural productivity of the restricted land.
 - (i) The dumping or accumulation of any kind of trash or refuse on the restricted land is prohibited. However, this shall not prevent the storage of agricultural products and by-products on the restricted land, so long as it is done in accordance with all applicable laws, administrative regulations, and ordinances.
 - (j) Golf courses are prohibited on the restricted land. Buildings and facilities for any other public or private recreational use may not be built on the restricted land without the advance written approval of the PACE board. The PACE board shall not give approval unless it determines that the proposed use or facilities will not substantially diminish or impair the agricultural productivity of the restricted land.
- (5) Landowners shall retain the right to perform any act not specifically prohibited or limited by this section and administrative regulations promulgated under its provisions. These ownership rights include, but are not limited to, the right to exclude any member of the public from trespassing on the restricted land and the right to sell or otherwise transfer the restricted land to anyone of the landowner's choice.

➔Section 28. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

- (1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;
- (2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:
 - (a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill. *As used in this paragraph and in paragraph (b) of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;*

- (b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;
 - (c) For both the purposes described in paragraphs (a) and (b) of this subsection;
 - (d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or
 - (e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;
- (3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;
 - (4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;
 - (5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;
 - (6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;
 - (7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tippie where the railhead or tippie is located at a point not more than fifty (50) air miles from the point at which the coal is mined;
 - (8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in KRS 311A.010;
 - (9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;
 - (10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;
 - (11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;
 - (12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section;
 - (13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI;

- (14) Motor vehicles used to transport children to educational events or conservation camps run by, or sponsored by, the Department of Fish and Wildlife;
- (15) Motor vehicles used to transport children to events or camps run by, or sponsored by, the Kentucky Sheriffs Association; or
- (16) (a) Motor vehicles used in the transportation of persons who are sixty (60) years of age or older or who are visually impaired, if the motor vehicles are owned by a nonprofit organization or being used on behalf of a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.
- (b) Motor vehicles owned and operated by a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 281.655.
- (c) Motor vehicles owned privately but operated on behalf of a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 304.39-110.

➔Section 29. KRS 433.255 is amended to read as follows:

When in any community of the state there have been repeated or aggravated instances of larceny of ~~livestock~~~~[cattle]~~, the Governor may offer a reward for the apprehension and conviction of any person guilty of larceny of ~~livestock~~~~[cattle]~~, as defined in ~~Section 30 of this Act~~~~[KRS 446.010]~~, in such community, and in his ~~or her~~ discretion may employ detectives, not exceeding two (2) at any one (1) time, for the ferreting out, apprehension, and conviction of any offender. The reward may be in any sum fixed by the Governor, not exceeding \$1,000. The Governor shall by executive proclamation designate the boundaries of the community to which the reward shall apply. The reward shall be paid out of the Governor's general emergency fund.

➔Section 30. 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) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- ~~(8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;~~
- ~~(9)~~ "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;

- (9)~~(10)~~ "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (10)~~(11)~~ "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (11)~~(12)~~ "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (12)~~(13)~~ "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (13)~~(14)~~ "Directors," when applied to corporations, includes managers or trustees;
- (14)~~(15)~~ "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (15)~~(16)~~ "Domestic animal" means any animal converted to domestic habitat;
- (16)~~(17)~~ "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (17)~~(18)~~ "Federal" refers to the United States;
- (18)~~(19)~~ "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;
- (19)~~(20)~~ "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;
- (20)~~(21)~~ "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;
- (21)~~(22)~~ "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;
- (22)~~(23)~~ "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (23)~~(24)~~ "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (24)~~(25)~~ "Legatee" and "devisee" convey the same idea;
- (25) **"Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;**
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "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;

- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;
- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
 - (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;
- (37) "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;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;
- (39) "Shall" is mandatory;
- (40) "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;
- (41) "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;
- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;
- (46) "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;
- (47) "Violate" includes failure to comply with;
- (48) "Will" includes codicils; "last will" means last will and testament;
- (49) "Year" means calendar year;
- (50) "City" includes town;

- (51) 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 branch budget bill as provided for in KRS Chapter 48;
- (52) "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;
- (53) "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;
- (54) "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;
- (55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards; and
- (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association.

Signed by Governor March 27, 2017.

CHAPTER 130

(SB 173)

AN ACT relating to Department of Juvenile Justice facilities and making an appropriation therefor.

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

➔Section 1. Notwithstanding KRS 15A.069 and KRS 45.777, proceeds from the disposal under KRS 45A.045 of any state-owned real property and improvements in Owensboro, Kentucky operated by the Department of Juvenile Justice shall be used to service debt relating to the Department of Juvenile Justice's Guaranteed Energy Savings Performance Contract loans. Any remaining proceeds shall be paid into the fiscal incentive program established under KRS 15A.062.

Signed by Governor March 27, 2017.

CHAPTER 131

(HB 395)

AN ACT relating to the reorganization of the Finance and Administration Cabinet.

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

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

- (1) *The Office of the Inspector General is established within the Office of the Secretary of the Finance and Administration Cabinet and shall be responsible for conducting various investigations within the executive branch in accordance with KRS 45.131.*
- (2) *The Division of Special Investigations is established within the Office of the Inspector General and shall be headed by a director appointed by the secretary pursuant to KRS 12.050, who shall report to the executive director of the office. The division shall investigate alleged violations of the tax laws and recommend criminal prosecution of the laws when warranted.*

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

- (1) *The Office of Legislative and Intergovernmental Affairs is established within the Finance and Administration Cabinet to provide executive direction and coordination of the cabinet's legislative priorities.*
- (2) *The Office of Legislative and Intergovernmental Affairs, in close communication with the secretary, shall:*
 - (a) *Proactively pursue the goals of the cabinet by working with members of the General Assembly and the staff of the Legislative Research Commission;*
 - (b) *Oversee all public information issues;*
 - (c) *Manage requests for information; and*
 - (d) *Prepare press releases, respond to press inquiries, and coordinate the publication of newsletters, reports, Web site information, and other statewide communications of the Finance and Administration Cabinet.*

➔Section 3. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.

- c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.

8. Division of Forestry.
9. Division of Conservation.
10. Office of the Reclamation Guaranty Fund.
11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.

3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.

- 9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.

3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) *Office of the Secretary.*
 - (b) *Office of the Inspector General.*
 - (c) *Office of Legislative and Intergovernmental Affairs.*
 - (d) Office of General Counsel.
 - ~~(e)(b)~~ Office of the Controller.
 - ~~(f)(e)~~ Office of Administrative Services.
 - ~~(d) — Office of Public Information.~~
 - ~~(g)(e)~~ Office of Policy and Audit.
 - ~~(h)(f)~~ Department for Facilities and Support Services.
 - ~~(i)(g)~~ Department of Revenue.
 - ~~(j)(h)~~ Commonwealth Office of Technology.
 - ~~(k)(i)~~ State Property and Buildings Commission.

- (l)~~{(j)}~~ Office of Equal Employment Opportunity and Contract Compliance.
- (m)~~{(k)}~~ Kentucky Employees Retirement Systems.
- (n)~~{(l)}~~ Commonwealth Credit Union.
- (o)~~{(m)}~~ State Investment Commission.
- (p)~~{(n)}~~ Kentucky Housing Corporation.
- (q)~~{(o)}~~ Kentucky Local Correctional Facilities Construction Authority.
- (r)~~{(p)}~~ Kentucky Turnpike Authority.
- (s)~~{(q)}~~ Historic Properties Advisory Commission.
- (t)~~{(r)}~~ Kentucky Tobacco Settlement Trust Corporation.
- (u)~~{(s)}~~ Kentucky Higher Education Assistance Authority.
- (v)~~{(t)}~~ Kentucky River Authority.
- (w)~~{(u)}~~ Kentucky Teachers' Retirement System Board of Trustees.
- (x)~~{(v)}~~ Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.

- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.
 - 9. Division of Sales.
 - 10. Division of Security and Traffic Control.
 - 11. Division of Information Technology.
 - 12. Division of the Louisville Arena.
 - 13. Division of Fiscal and Contract Management.
 - 14. Division of Access Control.
- (f) Office of the Secretary.
 - 1. Office of Finance.
 - 2. Office of Research and Administration.
 - 3. Office of Governmental Relations and Tourism Development.
 - 4. Office of the Sports Authority.
 - 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.

- 3. Division of Research and Publications.
 - 4. Division of Administration.
 - (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
 - (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
 - III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.
 - (4) Kentucky Commission on Human Rights.
 - (5) Kentucky Commission on Women.
 - (6) Department of Veterans' Affairs.
 - (7) Kentucky Commission on Military Affairs.
 - (8) Office of Minority Empowerment.
 - (9) Governor's Council on Wellness and Physical Activity.
- ➔Section 4. KRS 42.0145 is amended to read as follows:
- (1) The Office of the Secretary of the Finance and Administration Cabinet shall consist of the ***Office of Inspector General***, Office of General Counsel, Office of Administrative Services,~~[Office of Public Information,]~~ ***Office of Legislative and Intergovernmental Affairs***, Office of Policy and Audit, and Office of Equal Employment Opportunity and Contract Compliance, each headed by an executive director who shall be appointed by the secretary with the approval of the Governor. The Office of the Secretary shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.
 - (2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12.
 - (3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.
- ➔Section 5. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:

- (a) Office of the Commissioner~~[of the Department of Revenue]~~, which shall consist of:

1. ***The Division of Protest Resolution, headed by a division director who shall report directly to the commissioner. The division shall administer the protest functions for the department from office resolution through court action***~~[The Division of Special Investigations, headed by a division director who shall report to the commissioner. The division shall investigate alleged violations of the tax laws and recommend criminal prosecution of the laws as warranted]; and~~
2. The Division of Taxpayer Ombudsman, headed by a division director who ~~is appointed by the secretary pursuant to KRS 12.050, and who~~ shall report to the commissioner. The division shall perform those duties set out in KRS 131.083;

- (b) ***Office of Tax Policy and Regulation, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for:***

1. ***Providing oral and written technical advice on Kentucky tax law;***
2. ***Drafting proposed tax legislation and regulations;***
3. ***Testifying before legislative committees on tax matters;***
4. ***Analyzing tax publications;***
5. ***Providing expert witness testimony in tax litigation cases;***
6. ***Providing consultation and assistance in protested tax cases; and***
7. ***Conducting training and education programs;***

- (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; ***and***
3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;~~[and~~
4. ~~Division of Protest Resolution, which shall be responsible for ensuring an independent review of tax disputes. The division shall administer the protest functions for the department from office resolution through court action;]~~

- ~~(d)~~~~(e)~~ Office of Property Valuation,~~[The Office of Property Valuation shall be]~~ headed by an executive director who shall report directly to the commissioner. The office shall consist of the:

1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;
2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper

filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;

~~(e)(4)~~ Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

~~(f)(e)~~ Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

~~(g)(f)~~ Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 6. The following KRS section is repealed:

42.0173 Office of Public Information.

➔Section 7. The General Assembly confirms Executive Order 2016-602, dated August 12, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 27, 2017.

CHAPTER 132

(HB 390)

AN ACT relating to state government and declaring an emergency.

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

➔Section 1. KRS 153.215 is repealed, reenacted, and amended to read as follows:

- (1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.
- (2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.
- (3) **The Governor shall appoint members to the council. The**~~membership of the~~ council shall consist of not more than **fifteen (15)**~~sixteen (16)~~ members who have an interest in the arts **and have the ability and experience to provide broad expertise in operation of the council. Members shall reflect the diverse interests of the arts community to the extent such diversity is possible. At least one (1) member shall represent each of the following areas: education, economic development, and workforce development.** ~~{On July 1, 1972, the }The Governor shall appoint three (3)~~~~{not more than four (4)}~~ members for a term **to expire on November 18, 2017**~~{of one (1) year}; five (5)~~~~{not more than four (4)}~~ members for a term **to expire on November 18, 2018**~~{of two (2) years}; {not more than} four (4) members for a term to expire on November 18, 2019~~~~{of three (3) years}; and three (3)~~~~{not more than four (4)}~~ members for a term **to expire on November 18, 2020**~~{of four (4) years}~~. Thereafter the Governor shall make all appointments for a term of four (4) years~~, except that of the members appointed after July 15, 1998, four (4) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; four (4) members appointed to fill the terms expiring July 1, 2000, shall serve until February 1, 2001; four (4) members appointed to fill the terms expiring July 1, 2001, shall serve until February 1, 2002; and members appointed to fill the terms expiring July 1, 2002, shall serve until February 1, 2003; and subsequent appointments shall be for four (4) year terms ending on February 1}~~. **Members may be reappointed to one (1) additional four (4) year term.**
- (4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.
- (5) From the council membership the Governor shall appoint a **chair**~~chairman~~ and a vice **chair**~~chairman~~ of the council **who shall serve at the pleasure of the Governor**. The council may elect by majority vote other officers deemed necessary. **The chair shall not be represented by a proxy. Should the chair be unavailable, the vice chair shall serve in the chair's stead.**
- (6) The council shall meet at the call of the **chair**~~chairman~~, but not less often than **three (3) times**~~twice~~ during each calendar year. A majority of the members appointed to the council shall constitute a quorum.
- (7) The council shall be attached to the Tourism, Arts and Heritage Cabinet as **a department within the meaning of KRS Chapter 12**~~{an independent administrative body}~~.
- (8) The council shall be headed by an executive director appointed by the secretary of the Tourism, Arts and Heritage Cabinet **and confirmed by majority vote**~~{upon recommendation}~~ of the council.

➔Section 2. KRS 148.850 is amended to read as follows:

- (1) The Tourism Development Finance Authority is created within the Tourism, Arts and Heritage Cabinet. The authority shall consist of **nine (9)**~~seven (7)~~ members appointed by the Governor, **at least one (1) of whom shall represent the film industry and at least one (1) of whom shall represent individuals with professional experience in financial management or economic development**. The members of the authority shall serve without compensation but shall be entitled to reimbursement for their necessary expenses incurred in performing their duties. Of the members initially appointed to the authority, two (2) members shall be appointed for terms of one (1) year, three (3) members shall be appointed for terms of two (2) years, and two (2) members shall be appointed for terms of three (3) years. Thereafter, the members of the authority shall be appointed for terms of four (4) years.
- (2) The Governor shall appoint one (1) member as chairperson of the Tourism Development Finance Authority. The members of the authority may elect other officers as they deem necessary.
- (3) No member of the Tourism Development Finance Authority shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the authority for any matter, cause, or thing that creates any liability or indebtedness against the authority.

- (4) The Tourism Development Finance Authority shall have the powers necessary to carry out the purposes of this section, KRS 139.536, *and* KRS 148.851 to 148.860, ~~and the Tourism Development Loan Program created by 2000 Ky. Acts ch. 549, Part IX, Section 47,~~ including but not limited to the power to:
- (a) ~~Make and condition all loans from the Tourism Development Loan Program;~~
 - ~~(b)~~ Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incidental to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and
 - ~~(b)(c)~~ Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.

➔Section 3. KRS 148.853 is amended to read as follows:

- (1) The General Assembly finds and declares that:
- (a) The general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;
 - (b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;
 - (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and
 - (d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.
- (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:
- (a) For a tourism attraction project:
 1. The total eligible costs shall exceed one million dollars (\$1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars (\$500,000);
 2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and
 3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
 - (b) For an entertainment destination center project:
 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;
 3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;
 4. In any year, including the first year of operation, the entertainment destination center project shall:
 - a. Be open to the public at least one hundred (100) days per year;

- b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and
 - c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and
 - 5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
 - (c) For a theme restaurant destination attraction project:
 - 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 - 2. In any year, including the first year of operation, the attraction shall:
 - a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and
 - b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;
 - 3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and
 - 4. The theme restaurant destination attraction project shall:
 - a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;
 - b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public; or
 - c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;
 - (d) For a lodging facility project:
 - 1.
 - a. The eligible costs shall exceed five million dollars (\$5,000,000) unless the provisions of subdivision b. of this subparagraph apply.
 - b.
 - i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars (\$6,000,000); and
 - ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars (\$10,000,000); and
 - 2. In any year, including the first year of operation, the lodging facility shall:
 - a. Be open to the public at least one hundred (100) days; and
 - b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;~~and~~
 - (e) ***Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and***
 - (f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.
- (3) The incentives offered under the Kentucky Tourism Development Act shall be as follows:

- (a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and
- (b)
 1. For a tourism development project other than a lodging facility project described in KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:
 - a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in subparagraph 5. of this paragraph; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);
 2. For a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):
 - a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);
 3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
 - a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and
 - b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);
 4. Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives; and
 5. If the approved company is an entertainment destination center that has dedicated at least thirty million dollars (\$30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:
 - a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and
 - b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project.

➔Section 4. KRS 45.763 is amended to read as follows:

- (1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education defined as an institution in KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.
- (2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars (\$400,000), if:
 - (a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation will become the owner of the real property or equipment at any time; and
 - (b) All or any portion of the purchase price of the real property or equipment is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.

- (3) ***For any capital projects authorized by Section 5 of this Act and utilizing the public-private partnership delivery method, the General Assembly has authorization through the Capital Projects and Bond Oversight Committee to review and approve a project in accordance with KRS 45.800. The contracting body shall report a capital project to the Capital Projects and Bond Oversight Committee after negotiations are complete with the project partner but prior to beginning work on the project for review and approval by the committee.***

➔Section 5. KRS 45A.077 is amended to read as follows:

- (1) A public-private partnership delivery method may be utilized as provided in this section and administrative regulations promulgated thereunder. State contracts using this method shall be awarded by competitive negotiation.
- (2) A contracting body utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.
- (3) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The administrative regulations shall reflect the intent of the General Assembly to promote and encourage the use of public-private partnerships in the Commonwealth. The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative regulations.
- (4) A request for proposal for a project utilizing a public-private partnership shall include at a minimum:
 - (a) The parameters of the proposed public-private partnership agreement;
 - (b) The duties and responsibilities to be performed by the private partner or partners;
 - (c) The methods of oversight to be employed by the contracting body;
 - (d) The duties and responsibilities that are to be performed by the contracting body and any other partners to the contract;
 - (e) The evaluation factors and the relative weight of each to be used in the scoring of awards;
 - (f) Plans for financing and operating the qualifying project and the revenues, service payments, bond financings, and appropriations of public funds needed for the qualifying project;
 - (g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity;
 - (h) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and
 - (i) Other information required by the contracting body or the cabinet to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.
- (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the contracting body or the cabinet that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as part of the public-private partnership agreement.
- (6) When a request for proposal for a project utilizing a public-private partnership is issued for a capital project, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff, clearly identifying to the staff that a public-private partnership is being utilized.
- (7) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that the action is taken in the best interest of the Commonwealth and approved by the purchasing officer.
- (8) In the case of any public-private partnership for a capital project with an aggregate value of twenty-five million dollars (\$25,000,000) or more, the project shall be authorized by the General Assembly, by inclusion in the branch budget bill or by any other means, explicitly identifying and authorizing the utilization of a

public-private partnership delivery method for the applicable capital project. The authorization of a capital project required by this subsection is in addition to any other statutorily required authorization for a capital project.

- (9) Upon issuance of a public-private partnership agreement, the contracting body shall submit the contract to the Government Contract Review Committee for review in accordance with KRS 45A.690 to 45A.725. The contracting body shall ensure that the contract clearly identifies to the committee that a public-private partnership is being utilized. Upon disapproval of or objection to the contract by the committee, ***the secretary of the Finance and Administration Cabinet in consultation with*** the contracting body shall determine whether the contract shall be revised to comply with the objections of the committee, be canceled, or remain in effect ***pursuant to KRS 45A.705(6)***.
- (10) Any corporation as described by KRS 45.750(2)(c), or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth, that manages its capital construction program shall:
 - (a) Adhere to the administrative regulations promulgated under this section when utilizing a public-private partnership for financing capital projects;
 - (b) Report to legislative committees as specified in this section; and
 - (c) Submit public-private partnership agreements issued by it to the General Assembly for authorization as provided in subsection (8) of this section.
- (11) (a) The governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580 shall:
 1. Report to the Capital Projects and Bond Oversight Committee staff as specified in this section; and
 2. Not be required to comply with the provisions of subsection (9) of this section.
- (b) Any provision of a public-private partnership agreement issued by a postsecondary institution which provides for a lease by or to the postsecondary institution shall be valid and enforceable if approved by the governing board of the institution.
- (12) (a) A person or business may submit an unsolicited proposal to a governmental body, which may receive the unsolicited proposal.
- (b) Within ***ninety (90)*** ~~thirty (30)~~ days of receiving an unsolicited proposal, a governmental body may elect to consider further action on the proposal, at which point the governmental body shall provide public notice of the proposal, and shall:
 1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the governmental body and the person or business; and
 2. Provide for a notice period ~~of ninety (90) days~~ for the submission of competing proposals ***as follows:***
 - a. ***Unsolicited proposals valued below five million dollars (\$5,000,000) shall be posted for thirty (30) days;***
 - b. ***Unsolicited proposals valued between five million dollars (\$5,000,000) and twenty-five million dollars (\$25,000,000) shall be posted for sixty (60) days; and***
 - c. ***Unsolicited proposals valued over twenty-five million dollars (\$25,000,000) shall be posted for ninety (90) days.***
- (c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the governmental body may consider the unsolicited proposal and any competing proposals received. If the governmental body determines it is in the best interest of the Commonwealth to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the governmental body may begin an open, competitive procurement process to do so pursuant to this chapter.
- (d) An unsolicited proposal shall be deemed rejected if no written response is received from the governmental body within ***ninety (90)*** ~~sixty (60)~~ days of ***submission, during which time the***

governmental body has not taken any action on the proposal~~[the end of the notice period provided]~~
under paragraph (b)~~[2.]~~ of this subsection.

➔Section 6. KRS 65.028 is amended to read as follows:

- (1) As used in this section:
 - (a) "Best value" has the same meaning as in KRS 65.025;
 - (b) "Cabinet" means the Finance and Administration Cabinet;
 - (c) "Local government" means a city, county, charter county, urban-county government, consolidated local government, or unified local government of the Commonwealth;
 - (d) "Private partner" has the same meaning as in KRS 65.025; and
 - (e) "Public-private partnership" has the same meaning as in KRS 65.025.
- (2) A public-private partnership delivery method may be utilized by a local government as provided in this section and administrative regulations promulgated thereunder. Contracts using this method shall be awarded by competitive negotiation on the basis of best value, and shall in all cases take effect only if executed by the legislative body of the local government. The provisions of KRS 65.025(2) to (4) shall not apply to public-private partnerships utilized by local governments.
- (3) A local government utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.
- (4) A public-private partnership shall not be used to circumvent any requirements or restrictions placed upon any local government pursuant to any provision of the Kentucky Revised Statutes.
- (5) All public-private partnership agreements executed by a local government or any of its agencies under this section shall be approved by the legislative body of the local government at a public meeting, and shall include at a minimum the following provisions:
 - (a)
 1. Property owned by a local government shall not be sold, conveyed, or disposed of in any way at any time; and
 2. Leases issued by a local government to any party shall not be transferred in any way by that party;

without the specific and express written consent of the legislative body of the local government;
 - (b) Require the private partner to provide or cause to be provided performance and payment bonds on the design and construction portion of the agreement as required under KRS 45A.435 and maintenance bonds, warranties, guarantees, and letters of credit in connection with the private partner's other activities under the agreement, in the forms and amounts satisfactory to the local government and in amounts necessary to provide adequate protection to the local government;
 - (c) Review and approval of plans and specifications for the project by the local government;
 - (d) Inspection of the project by the local government to ensure that the private partner's actions are acceptable to the local government in accordance with the agreement;
 - (e) Maintenance of public liability insurance or self-insurance, in form and amount satisfactory to the local government and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the project;
 - (f) Reimbursement to be paid to the local government for services provided by the local government;
 - (g) Filing of appropriate financial statements by the private partner on a periodic basis;
 - (h) Policies and procedures governing the rights and responsibilities of the local government and the private partner in the event the public-private partnership agreement is terminated or there is a material default by the private partner. These policies and procedures shall include conditions governing assumption of the duties and responsibilities of the private partner by the local government, and the transfer or purchase of property or other interests of the private partner by the local government;
 - (i) Any fees or payments as may be established by agreement of the private partner and the local government;

- (j) A detailed description of all duties and requirements of the private partner;
 - (k) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and
 - (l) Any other information necessary to properly address the life cycle of the agreement, including the disposition of assets if or when the public-private partnership agreement is terminated or otherwise concludes.
- (6) (a) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used by a local government employing a public-private partnership for a particular project, and establishing a process for public-private partnership procurement undertaken by local governments consistent with this section. Prior to submission of the proposed administrative regulations pursuant to the regulatory process required by KRS Chapter 13A, the proposed administrative regulations shall be approved by the Kentucky Local Government Public-Private Partnership Board established by subsection (11) of this section.
- (b) The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative regulations.
- (c) The secretary shall have the authority to contract with a consultant, pursuant to KRS 45A.695, to assist the cabinet and the Kentucky Local Government Public-Private Partnership Board with the review process required in subsection (12) of this section. The secretary may, through administrative regulation, impose a reasonable fee on the private partner to defray the cost of the review required in subsection (12) of this section, including any expenses or fees incurred in contracting with a consultant.
- (d) If the secretary fails to timely promulgate administrative regulations pursuant to this subsection, local governments may then act pursuant to this section including compliance with the process outlined in subsection (12) of this section, in the absence of administrative regulations.
- (7) A request for proposal for a local government project utilizing a public-private partnership shall include at a minimum:
- (a) The parameters of the proposed public-private partnership agreement;
 - (b) The duties and responsibilities to be performed by the private partner or partners;
 - (c) The methods of oversight to be employed by the local government;
 - (d) The duties and responsibilities that are to be performed by the local government and any other partners to the contract;
 - (e) The evaluation factors and the relative weight of each to be used in the scoring of awards; and
 - (f) Other information required by a local government to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.
- (8) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the local government that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as part of the public-private partnership agreement.
- (9) When a request for proposal for a project utilizing a public-private partnership is issued, the local government shall transmit a copy of the request for proposal to the cabinet and to the Department for Local Government.
- (10) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that the action is taken in the best interest of the local government and approved by the legislative body.
- (11) (a) There is established within the cabinet the Kentucky Local Government Public-Private Partnership Board, composed of eleven (11) members as follows:
- 1. The secretary of the cabinet, or the secretary's designee;

2. Two (2) individuals appointed by the Kentucky League of Cities, both of whom shall have experience in municipal financial operations;
 3. Two (2) individuals appointed by the Kentucky Association of Counties, both of whom shall have experience in county financial operations, one (1) to be recommended by the Kentucky County Judge/Executive Association and one (1) to be recommended by the Kentucky County Magistrates and Commissioners Association;
 4. The commissioner of the Department for Local Government, or the commissioner's designee;
 5. The executive director of the Office of Financial Management within the cabinet, or the executive director's designee;
 6. The Auditor of Public Accounts, or the Auditor's designee;
 7. One (1) citizen member appointed by the Governor, who shall have experience and knowledge in local government debt and financial operations; and
 8. Two (2) members of the Kentucky General Assembly, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives, each of whom shall serve in a nonvoting ex officio capacity and shall not be considered for purposes of determining a quorum.
- (b) Members of the board shall begin their terms on August 1, 2016, and shall serve for a term of four (4) years.
- (c) ***Board members appointed under paragraph (a)2. and 3. of this subsection may send a designee with similar experience to meetings for which they are unavailable.***
- (d) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.
- ~~(e)(d)~~ The members of the board shall receive no compensation for their services.
- ~~(f)(e)~~ The secretary of the cabinet, or the secretary's designee, shall serve as chair of the board and the members shall elect a vice chair from among the membership of the board. The vice chair may preside over meetings of the board in the absence of the chair.
- ~~(g)(f)~~ The board shall meet at least once per year, and as needed for the timely consideration of proposed projects. A majority of the members of the board shall constitute a quorum.
- ~~(h)(g)~~ The secretary of the cabinet shall be responsible for providing staff support and maintaining complete records of the board's actions and proceedings, as public records open to inspection.
- (12) (a) Upon the initial issuance of a public-private partnership agreement having a total contractual value that equals or exceeds thirty percent (30%) of the general fund revenues received by the local government in the immediately preceding fiscal year, the local government shall submit the agreement to the cabinet for the sole purpose of making an evaluation to the Kentucky Local Government Public-Private Partnership Board of the following:
1. Whether the agreement meets the requirements of subsection (5) of this section;
 2. An analysis of the overall project's economic and financial viability within the scope of available or proposed financing arrangements and expected revenues; and
 3. Whether the agreement adheres to the procurement process required by subsection (2) of this section.
- Public-private partnership agreements having a total contractual value that is less than thirty percent (30%) of the general fund revenues received by the local government in the immediately preceding fiscal year shall not be required to be submitted to the cabinet ***or the Kentucky Local Government Public-Private Partnership Board.***
- (b) The local government shall submit any information required by the cabinet, relating to the agreement and its procurement, to enable the cabinet to conduct this evaluation.
- (c) The cabinet shall acknowledge receipt of the agreement within thirty (30) days, and after evaluation thereof shall, within ninety (90) days of its receipt, forward the results of its evaluation separately to each individual member of the Kentucky Local Government Public-Private Partnership Board. The full

board shall meet within sixty (60) days of the issuance of the cabinet's evaluation to consider the evaluation provided by the cabinet and approve or disapprove the proposed agreement. If the board disapproves the project, the board shall provide specific reasons for its disapproval. If the board approves the project, the cabinet shall return the agreement to the local government legislative body for final execution thereof. No public-private partnership agreement issued by a local government *that is subject to evaluation by the cabinet and review and approval by the Kentucky Local Government Public-Private Partnership Board pursuant to paragraph (a) of this subsection* shall take effect unless and until it is approved by the Kentucky Local Government Public-Private Partnership Board pursuant to this subsection and is found by the board to meet the requirements of this section and to be economically viable as provided in this subsection.

- (d) If an agreement is not approved by the board, the local government submitting the agreement may modify the agreement and resubmit it for reconsideration in accordance with this section.
- (13) The Commonwealth shall bear no liability for public-private partnership agreements approved pursuant to subsection (12) of this section.
- (14) Upon approval and execution of a public-private partnership agreement, the local government shall transmit a copy of the agreement to the Department for Local Government.
- (15) The Auditor of Public Accounts may periodically review public-private partnership agreements executed by a local government pursuant to this section, and any actions undertaken by private partners and local governments thereunder, to evaluate compliance with the agreement and this section.
- (16) Multiple local governments, acting in accordance with KRS 65.210 to 65.300, may jointly enter into a public-private partnership pursuant to this section. Public-private partnership agreements involving multiple local governments shall only be required to be submitted to the cabinet for evaluation *and to the Kentucky Local Government Public-Private Partnership Board for review and approval*, as provided by subsection (12) of this section, if the total contractual value equals or exceeds thirty percent (30%) of the combined general fund revenues received in the immediately preceding fiscal year by all local governments participating in the agreement.
- (17)
 - (a) A person or business may submit an unsolicited proposal to a local government, which may receive the unsolicited proposal.
 - (b) Within *ninety (90)* ~~thirty (30)~~ days of receiving an unsolicited proposal, a local government may elect to consider further action on the proposal, at which point the local government shall provide public notice of the proposal pursuant to KRS Chapter 424 or electronically on the Web site of the local government, and shall:
 - 1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the local government and the person or business; and
 - 2. Provide for a notice period of *at least thirty (30) days and no more than ninety (90) days* for the submission of competing proposals.
 - (c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the local government may consider the unsolicited proposal and any competing proposals received. If the local government determines it is in the best interest of the local government to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the local government may begin an open, competitive procurement process to do so pursuant to this section.
 - (d) An unsolicited proposal shall be deemed rejected if no written response is received from the local government within *ninety (90)* ~~sixty (60)~~ days *after submission, during which time the governmental body has not taken any action on the proposal* ~~of the end of the notice period provided~~ under paragraph (b) ~~2~~ of this subsection.

➔Section 7. KRS 175B.015 is amended to read as follows:

- (1) The Kentucky Public Transportation Infrastructure Authority is hereby established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth. The General Assembly hereby finds and declares that in carrying out its functions, powers, and duties as prescribed in this chapter, the state authority will be performing essential

public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.

- (2) (a) The state authority shall be composed of the following eleven (11) voting members:
 - 1. The secretary of the Finance and Administration Cabinet, or the secretary's designee;
 - 2. The secretary of the Transportation Cabinet;
 - 3. A representative of the Kentucky Association of Counties, to be appointed by the Governor;
 - 4. A representative of the Kentucky County Judges/Executive Association, to be appointed by the Governor;
 - 5. A representative of the Kentucky League of Cities, to be appointed by the Governor; and
 - 6. Six (6) citizen members to be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, at least two (2) of whom shall be familiar with road and bridge design or the financing and administration of transportation infrastructure projects; and
- (b) Each Kentucky member who shares duties as a presiding officer of a bi-state authority pursuant to KRS 175B.030(4)(a)3. shall serve as a nonvoting ex officio member.
- (3) The ex officio members shall serve for the term of their respective offices.
- (4) Members appointed pursuant to subsection (2)(a)3. to 6. of this section shall begin their terms on October 1, 2009, and shall be appointed for a term of four (4) years; however, in making initial appointments, the members appointed pursuant to subsection (2)(a)6. of this section shall include two (2) members for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years.
- (5) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (6) The members of the state authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the state authority.
- (7) (a) Members of the state authority shall be considered public servants subject to KRS Chapter 11A.
- (b) The following individuals or entities shall be prohibited from entering into any contract or agreement with the state authority:
 - 1. Any member of the state authority, a project authority, or a bi-state authority;
 - 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority, a project authority, or a bi-state authority; and
 - 3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, member, or partner or has any other ownership interest.
- (8) (a) The chairman of the state authority shall be the secretary of the Transportation Cabinet.
- (b) The members of the state authority shall elect a vice chairman and a secretary from the membership.
- (9) The Finance and Administration Cabinet shall provide fiscal consultant services to the state authority.
- (10) The state authority shall hold its initial meeting no later than November 1, 2009, and shall meet as needed thereafter, ~~for at least quarterly if any bi-state authority or project authority exists,~~ with adequate notice at the call of the chair. A quorum of at least fifty percent (50%) of the members of the state authority must be present for the state authority to take any action. At least eight (8) members shall vote in the affirmative for the state authority to approve a new project. All other business shall be approved by a majority vote of the members present.
- (11) (a) The state authority shall be attached for administrative purposes to the Transportation Cabinet. The state authority shall establish and maintain an office, and the secretary of the state authority shall maintain complete records of the state authority's actions and proceedings as public records open to inspection.

- (b) The state authority shall employ staff as needed in the conduct of its duties and functions, and shall fix their compensation.
- (12) The state authority may promulgate administrative regulations in accordance with KRS Chapter 13A as needed:
 - (a) Establishing collection and enforcement procedures, including fines, charges, assessments, and other enforcement mechanisms, for the violation of KRS 175B.040(4), and for violation of any administrative regulation promulgated under this subsection;
 - (b) Establishing an appeals process by which a person may contest a violation of KRS 175B.040(4), or a violation of any administrative regulation promulgated under this subsection, by way of an administrative hearing to be conducted in accordance with KRS Chapter 13B;
 - (c) Relating to any matters necessary to the efficient administration of tolls when implemented for a project developed under this chapter; and
 - (d) To fulfill any other requirements of this chapter.
- (13) The state authority shall comply with applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.
- (14) The records of the state authority shall be considered open records pursuant to KRS 61.870 to 61.884.
- (15) The meetings of the state authority shall be considered open meetings pursuant to KRS 61.805 to 61.850.

➔Section 8. KRS 175B.020 is amended to read as follows:

- (1) The state authority's primary purpose shall be to facilitate the construction, financing, operation, and oversight of projects by entering into bi-state agreements and by creating bi-state authorities, project authorities, and public-private partnerships. To accomplish these purposes, the state authority shall have the power and duty to:
 - (a) Take the following actions relating to a bi-state authority authorized pursuant to KRS 175B.030:
 - 1. To enter into a bi-state agreement;
 - 2. To review and approve project financing plans and development agreements; and
 - 3. To monitor agreements entered into by bi-state authorities;
 - (b) Take the following actions relating to a project authority authorized pursuant to KRS 175B.035:
 - 1. To request establishment of a project authority;
 - 2. To review and approve project financing plans and development agreements;
 - 3. To monitor activities of project authorities; and
 - 4. To enter into an agreement with the project authority; and
 - (c) Take the following actions relating to a public-private partnership authorized pursuant to KRS 175B.037:
 - 1. To request establishment of a public-private partnership;
 - 2. To review and approve project financing plans;
 - 3. To monitor activities of public-private partnerships; and
 - 4. To enter into an agreement as a part of or with a public-private partnership, if necessary.
- (2) The state authority, when authorized pursuant to subsection (10) of this section, may participate as a developing or issuing authority, or both, in the development, construction, or financing of a project by a bi-state or project authority, or by a public-private partnership, if necessary. If the state authority participates as a developing or issuing authority, the state authority shall have the powers and duties established in KRS 175B.025 as they apply to that project.
- (3) The state authority, as a function of its oversight of any other authority created pursuant to this chapter, shall report before the first issuance of bonds and no less than semiannually thereafter to the Capital Projects and Bond Oversight Committee and to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission, on any projects currently proposed or under development by each

authority. Current and proposed levels of bonding for each project shall be reviewed by the Capital Projects and Bond Oversight Committee in accordance with KRS 45.794 before the bonds shall be issued.

- (4) The state authority, when proposing a project pursuant to this chapter, shall to the extent practical consult with the officials representing the units of local government in which the proposed project is to be located in order to obtain the advice and input on the local impact of the proposed project, including information regarding land use planning, transportation planning, economic development, and any other factors having a direct impact to the local community.
- (5) The state authority may receive an unsolicited proposal if the proposal contains:
 - (a) An executive summary of no more than three (3) pages that details the revenue source for the proposed project, the amount of revenue expected to be generated by the project, and the project costs;
 - (b) A certification from a financial expert stating that the contents of the unsolicited proposal are true and correct; and
 - (c) ***A fee for the review of the executive summary***~~[A commitment to pay the costs incurred by the state authority and the cabinet for evaluating the unsolicited proposal].~~
- (6) The state authority shall respond to a person offering an unsolicited proposal notifying the person that the proposal has been rejected or approved for further review.
- (7) If the state authority approves an unsolicited proposal for further review, the state authority shall independently verify that it is in the best interest of the Commonwealth.
- (8) ***If the state authority approves a proposal for further review, the***~~[A]~~ person making ~~the~~~~[an]~~ unsolicited proposal shall pay all costs of evaluating the unsolicited proposal incurred by the state authority and the cabinet ***pursuant to an agreement negotiated between the state authority and the person making the unsolicited proposal.***
- (9) If the state authority and the cabinet agree that an unsolicited proposal is in the best interest of the Commonwealth, the state authority, with the assistance of the cabinet, shall begin a competitive procurement process to implement some or all of the concepts contained in the unsolicited proposal.
- (10) (a) Notwithstanding any other provision of this chapter, the following actions shall not take effect until ratified by the General Assembly:
 1. The creation of a bi-state authority;
 2. The creation of a project authority;
 3. The creation of a public-private partnership;
 4. The modification or amendment of the scope of any project; and
 5. The development of any project undertaken entirely by the state authority.
 (b) If any action described in paragraph (a) of this subsection is not ratified by the General Assembly, the creation, approval, or modification shall be considered void.
- (11) ***The state authority shall promulgate an administrative regulation in accordance with KRS Chapter 13A to determine the fee required by subsection (5)(c) of this section for the review of the executive summary.***

➔Section 9. KRS 175B.030 is amended to read as follows:

- (1) (a) 1. This section shall apply to any project that connects Kentucky with any state that adjoins the Commonwealth. A proposal to construct a project that connects Kentucky with an adjoining state shall be contained in a financing plan prepared pursuant to subsection (6) of this section. If approved, the project shall be constructed under the supervision of the state authority, a bi-state authority, or both, and may be financed by the state authority, a bi-state authority, a public-private partnership, or any combination of these.
2. If the state authority, operating pursuant to KRS 175B.020, participates in any capacity in the construction or financing of a project that connects Kentucky with an adjoining state, the state authority may assume all or part of the role of the bi-state authority relative to that project.
- (b) Subsections (2) to (4) of this section shall only apply to a bi-state authority.

- (c) Subsections (1) and (5) to (8) of this section shall apply to both a bi-state authority and a public-private partnership.
- (2) (a) A local government that contains a portion of a proposed project may, by resolution of its governing body, request that its chief executive officer and the Governor appoint a group of Kentucky members to negotiate with a similar group from an adjoining state for the purpose of proposing the creation of a bi-state authority composed of members from both states, recognized under the laws of both states, and existing for the purpose of financing, constructing, and operating a project or projects mutually beneficial to both states.
- (b) If established, the Kentucky membership of the bi-state authority shall consist of seven (7) members, three (3) of whom shall be appointed by the Governor, and four (4) of whom shall be appointed by the chief executive of the local government in which the project is located. The four (4) local government appointees shall be residents of the county in which the project is located. If a project is located in a consolidated local government, no more than two (2) appointees shall reside in the same Kentucky senatorial district. If portions of the project are located in more than one (1) local government, the chief executive of the county or consolidated local government having the largest population shall make the appointments authorized in this paragraph.
- (c) Any proposed agreement to establish a bi-state authority shall be presented to the state authority for approval. If the state authority approves the agreement, it shall be submitted to the General Assembly for ratification. If the agreement is ratified by the General Assembly, the state authority shall authorize the establishment of a bi-state authority and shall enter into an agreement with the adjoining state for the creation of a bi-state authority.
- (3) (a) Kentucky members of a proposed bi-state authority who are appointed by the Governor shall be confirmed by the Senate in accordance with KRS 11.160. Members appointed by the chief executive of the local government shall be confirmed by the governing body of the local government.
- (b) At least two (2) of the Governor's appointees and two (2) of the chief executive's appointees shall be familiar with road and bridge design or financing and administration of transportation infrastructure projects.
- (c) Members of a bi-state authority appointed by the Governor shall serve for four (4) years, except that initial appointments shall be as follows:
 - 1. One (1) appointee shall serve a term of two (2) years;
 - 2. One (1) appointee shall serve a term of three (3) years; and
 - 3. One (1) appointee shall serve a term of four (4) years.
- (d) The governing body of the local government requesting formation of the bi-state authority shall, by resolution, establish term lengths for the initial and succeeding members who are locally appointed, with each term not to exceed four (4) years.
- (e) Members of a bi-state authority representing the Commonwealth may be reappointed upon the expiration of their terms. Members reappointed shall be reconfirmed in the same manner as newly appointed members.
- (4) (a) An agreement establishing a bi-state authority shall at a minimum:
 - 1. Establish the total number of members of the bi-state authority;
 - 2. Establish staffing and funding to support the work of the bi-state authority;
 - 3. Designate the process for selecting a presiding officer of the bi-state authority, which shall include a requirement that a member from each state share the duties of presiding; and
 - 4. Require the approval of a majority of the members from each state before any action may be taken or any change may be made by the bi-state authority.
- (b) A bi-state authority created pursuant to this section shall take the legal form necessary to conform to the laws of both states. The Commonwealth shall consider the bi-state authority to be an independent de jure municipal corporation, constituting a governmental agency and instrumentality of the appropriate jurisdictions. The bi-state authority shall adopt a name indicative of its location and purpose.

- (c) Any bi-state agreement approved pursuant to this section may be presented to the United States Congress for consent thereof by joint resolution as provided in Article 1, Section 10, Clause 3 of the United States Constitution.
- (5) (a) Members of a bi-state authority appointed from the Commonwealth shall be considered public servants subject to KRS Chapter 11A.
- (b) Members of a bi-state authority appointed from the Commonwealth shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the bi-state authority.
- (c) The following individuals or entities shall be prohibited from entering into any contract or agreement with a bi-state authority or a public-private partnership:
 - 1. Any member of the bi-state authority appointed to represent the Commonwealth or any member of the state authority, a project authority, or a public-private partnership;
 - 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the bi-state authority appointed to represent the Commonwealth or any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority, a project authority, or a public-private partnership; and
 - 3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, member, or partner or has any other ownership interest.
- (d) A bi-state authority or public-private partnership shall comply with the procurement laws of both states that are a party to the agreement creating the bi-state authority or public-private partnership, including the provisions of KRS Chapter 45A, in the development of a project and the procurement of goods and services.
- (e) A bi-state authority or public-private partnership shall comply with the laws of both states concerning the inspection and disclosure of public records, including KRS 61.870 to 61.884.
- (f) A bi-state authority or public-private partnership shall comply with the laws of both states concerning the conduct of open meetings, including KRS 61.805 to 61.850.
- (6) (a) Prior to the execution of any agreements for the construction of the project, the state authority, the bi-state authority, a public-private partnership, or any combination of these, if appropriate, shall prepare a financial plan specifying the construction and financing parameters of the project, including:
 - 1. A timeline for construction of the project, including financing requirements throughout the construction of the project;
 - 2. The amount and duration of per-vehicle tolls;
 - 3. Expected appropriations from the General Assembly to be used for project costs; however, no financial plan shall be submitted or approved which *seeks or purports to bind any future General Assembly to appropriate any moneys* ~~[contains expected appropriations by the General Assembly]~~ beyond those appropriated in the most recently enacted biennial highway construction plan;
 - 4. Other sources of funds and expected amounts; and
 - 5. Other provisions relating to the construction and financing of the project.
- (b) 1. If the financial plan is prepared by a bi-state authority, the Kentucky members of the bi-state authority shall consult with the involved local governments in Kentucky, the department, and the Finance and Administration Cabinet, Office of Financial Management, during the development of the financial plan. Upon completion and approval of the financial plan by the bi-state authority, the plan shall be submitted to the state authority for approval.
- 2. If the financial plan is prepared by the state authority, the state authority shall consult with the involved local governments in Kentucky, the department, and the Finance and Administration Cabinet, Office of Financial Management, during the development of the financial plan. If the financial plan is viable based on all information available to the state authority, the state authority shall recommend the plan.

3. If the financial plan is prepared by a public-private partnership, the public-private partnership shall consult with the involved local governments in Kentucky, the department, and the Finance and Administration Cabinet, Office of Financial Management, during the development of the financial plan. Upon completion and approval of the financial plan by the public-private partnership, the plan shall be submitted to the state authority for approval.
- (c) The state authority shall not approve or recommend a financial plan which *seeks or purports to bind any future General Assembly to appropriate any moneys*~~{contains expected appropriations by the General Assembly}~~ beyond those appropriated in the most recently enacted biennial highway construction plan. If the financial plan is approved or recommended by the state authority, the cabinet and, as necessary, other state agencies or local governments may enter into a development agreement as provided in subsection (7) of this section with all necessary parties for the development of a project.
- (d) Every financial plan prepared pursuant to this section shall include an evaluation of the ability of a potential contractor or service provider to quickly respond to the needs presented in a major transportation project, and the importance of economic development opportunities represented by the construction of any project under this chapter. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal funds.
- (7) (a) Upon approval or recommendation of the financial plan as provided in subsection (6) of this section, a development agreement may be entered into establishing the terms and conditions under which a project will be undertaken and the duties, responsibilities, powers, and authorities of the parties to the agreement. The development agreement shall, at a minimum:
 1. Require the bi-state authority or public-private partnership to submit an annual report to the cabinet and the Legislative Research Commission;
 2. Require that an annual audit of the bi-state authority or public-private partnership be performed by a certified public accountant;
 3. Include the relevant provisions from the financial plan required by subsection (6) of this section;
 4. Include provisions detailing the duties, responsibilities, and obligations of each party in relation to the financing, development, operation, and maintenance of the project, and the servicing and retirement of all bonds;
 5. Establish limits on any reserve funds created for operation, maintenance, or bond servicing, which shall be at a level to adequately operate and maintain the project and ensure proper bond servicing;
 6. Prohibit the amendment of the project or the financial plan without the prior evaluation and approval by the state authority. No amendment shall be approved that *seeks or purports to bind any future General Assembly to appropriate any moneys*~~{provides for expected appropriations by the General Assembly}~~ beyond those appropriated in the most recently enacted biennial highway construction plan;
 7. If applicable, establish a process for the transfer of ownership of the portion of the project that is within the Commonwealth to the Commonwealth upon retirement of all bonds associated with the project or, if the project utilizes a public-private partnership, upon termination of that partnership; and
 8.
 - a. For a bi-state authority, require the approval of a majority of the members from each state before any action may be taken or any changes may be made by the bi-state authority; or
 - b. For a public-private partnership, require approval of the cabinet before any action may be taken or any changes may be made by the public-private partnership.
- (b) The parties to the agreement from the Commonwealth shall consult with the department and the Finance and Administration Cabinet, Office of Financial Management, in the development of the agreement.
- (c) Additional agreements may be executed, as necessary to complete the project.
- (d) The development agreement may take the form of a public-private partnership agreement.

- (8) The General Assembly hereby finds and declares that in carrying out the functions, powers, and duties as prescribed in this chapter, a bi-state authority or public-private partnership authorized under this section will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.
- (9) The state authority shall not enter into a public-private partnership related to a project connecting the Commonwealth with the State of Ohio unless the General Assembly expressly authorizes it by passing a joint resolution.

➔Section 10. KRS 175B.035 is amended to read as follows:

- (1) Potential projects that are within Kentucky may be developed by a project authority as provided in this section, or by a public-private partnership as provided in KRS 175B.037.
- (2) A local government that contains a portion of a proposed project may, by resolution of its governing body, request the state authority to evaluate the establishment of a project authority or a public-private partnership for the purpose of developing a project.
- (3) The state authority may request that the department evaluate the proposed project by preparation of a financial plan evaluating all aspects of the proposed project, including:
 - (a) The most effective location for the project;
 - (b) The impact on local governments and citizens at the location of or along the path of the project;
 - (c) A detailed analysis of the proposed cost of the project;
 - (d) The potential economic impact to the areas affected by the project;
 - (e) The anticipated level of use of the project;
 - (f) The amount and duration of per-vehicle tolls;
 - (g) Expected appropriations from the General Assembly to be used for the project; however, no financial plan shall be submitted or approved which *seeks or purports to bind any future General Assembly to appropriate any moneys*~~{contains expected appropriations by the General Assembly}~~ beyond those appropriated in the most recently enacted biennial highway construction plan;
 - (h) The ability of a potential contractor or service provider to quickly respond to the needs presented in a major transportation project, and the importance of economic development opportunities represented by the construction of any project under this chapter. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal funds;
 - (i) Other sources of funds and expected amounts; and
 - (j) Any other provisions relating to the construction and financing of the project.
- (4) If, based on the project evaluation prepared pursuant to subsection (3) of this section, the state authority and the department determine that the development of the project is economically feasible, the state authority shall submit the proposal to the General Assembly for ratification. If ratified by the General Assembly, the state authority may request that the Governor establish a project authority in accordance with the following:
 - (a) The project authority shall be established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth, with the power to contract and be contracted with, acquire and convey property, sue and be sued, and exercise all of the usual powers of corporations not inconsistent with the authority's specifically enumerated purpose and duties;
 - (b) The project authority shall adopt a name that includes the name of the project and the words "Project Authority";
 - (c) The project authority shall be composed of seven (7) members, three (3) of whom shall be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, and four (4) of whom shall be appointed by the chief executive of the local government that requested establishment of the project authority and confirmed by resolution of the local government's governing body;

- (d) Each member of the project authority shall be appointed for a period of four (4) years, except that in making initial appointments, the Governor shall appoint members for one (1), three (3), and four (4) years, and the chief executive shall appoint two (2) members each for two (2) and four (4) years; and
 - (e) At least one (1) of the Governor's appointees and two (2) of the chief executive's appointees shall be familiar with road and bridge design or financing and administration of transportation infrastructure projects.
- (5) (a) Within ninety (90) days of its establishment under subsection (4) of this section, the project authority shall convene and organize. The project authority shall elect a chair and a vice chair, who shall be members of the project authority and elected by a majority of the project authority members. The project authority shall appoint a secretary and a treasurer who shall not be members of the project authority, each of whom shall serve at the pleasure of the project authority and shall receive compensation as determined and paid by the project authority.
- (b) The treasurer shall give bond in an amount prescribed by the project authority to the project authority and the state conditioned upon a faithful accounting for all the funds coming into the treasurer's custody, with corporate surety given by a surety company qualified to do business in the state, the premium of which shall be paid by the project authority.
- (c) The project authority shall maintain an office, and the secretary of the project authority shall maintain in that office complete records of all the project authority's actions and proceedings, which shall be considered open records under KRS 61.870 to 61.884.
- (d) A project authority shall comply with the applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.
- (e) The meetings of a project authority shall be considered open meetings pursuant to KRS 61.805 to 61.850.
- (6) A majority of the members of a project authority shall constitute a quorum for the transaction of business. The members of a project authority shall receive no compensation for their services in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.
- (7) (a) Members of a project authority shall be considered public servants subject to the provisions of KRS Chapter 11A.
- (b) The following individuals or entities shall be prohibited from entering into any contract or agreement with a project authority or a public-private partnership:
- 1. Any member of a project authority, a bi-state authority, the state authority, or a public-private partnership;
 - 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of a project authority, a bi-state authority, the state authority, or a public-private partnership; and
 - 3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, a member, a partner, or has any other ownership interest.
- (8) (a) The state authority shall enter into a development agreement with a project authority or a public-private partnership to establish the terms and conditions under which a project will be undertaken. No financial plan shall be submitted or approved which ***seeks or purports to bind any future General Assembly to appropriate any moneys***~~[contains expected appropriations by the General Assembly]~~ beyond those appropriated in the most recently enacted biennial highway construction plan.
- (b) The development agreement shall establish the duties, responsibilities, and powers of the state authority, the project authority, a public-private partnership, and, as necessary, the cabinet with regard to the project.
- (c) The development agreement shall include, at a minimum, all information necessary relating to the creation, development, operation, and disposal of the project. No financial plan shall be submitted or approved which ***seeks or purports to bind any future General Assembly to appropriate any moneys***~~[contains expected appropriations by the General Assembly]~~ beyond those appropriated in the most recently enacted biennial highway construction plan.

- (d) After the proposed project has been approved and set forth in the development agreement, it shall not be changed or expanded without evaluation and approval by the state authority and ratification by the General Assembly.
- (e) Additional agreements may be executed, as necessary, between the state authority, the project authority, a public-private partnership, the department, and the cabinet.
- (9) The provisions of this chapter relating to the duties, responsibilities, powers, and authorities of the state authority shall apply to a project authority or a public-private partnership to the extent that the duties, responsibilities, powers, and authorities are required for the project authority or public-private partnership to carry out its duties and responsibilities under a development agreement.
- (10) Upon retirement of all bonds associated with a project developed under this section or, if the project utilizes a public-private partnership, upon termination of that partnership, the ownership of the project shall be transferred to the Commonwealth pursuant to KRS 175B.095.

➔Section 11. Notwithstanding KRS 12.028(5), the General Assembly hereby confirms Executive Order 2016-824, dated November 18, 2016, and Executive Order 2016-210, dated April 20, 2016, to the extent they are not otherwise confirmed or superseded by this Act.

➔Section 12. Whereas, it is critical for the health, safety, and economic well-being of the Commonwealth and its citizens to not delay any capital projects, an emergency is declared to exist and Sections 4 to 10 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2017.

CHAPTER 133

(HB 473)

AN ACT relating to unemployment insurance.

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

➔Section 1. KRS 341.070 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise, "subject employer" means:

- (1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in covered employment wages of fifteen hundred dollars (\$1,500) or more.
- (2) Any employing unit which for some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks are consecutive, in either the current or the preceding calendar year, had in covered employment at least one (1) worker (irrespective of whether the same worker was in employment in each such day).
- (3) Any employing unit for which service in covered employment, as defined in paragraph (d) of subsection (1) of KRS 341.050, is performed.
- (4) Any employing unit for which service in covered employment, as defined in paragraph (e) or (h) of subsection (1) of KRS 341.050, is performed.
- (5) Any employing unit for which service in covered employment, as defined in paragraph (f) or (h) of subsection (1) of KRS 341.050, is performed.
- (6) Any employing unit for which service in covered employment, as defined in paragraph (g) or (h) of subsection (1) of KRS 341.050, is performed.
- (7) (a) Any employing unit that *is the transferee of all or part of an employing unit that is or has been a subject employer at the time of the transfer;* ~~or succeeds to or acquires the organization, trade, or business, or substantially all of the assets of another employing unit which at the time of such succession or acquisition is a subject employer, or which succeeds to or acquires a portion of the organization, trade, or business of another employing unit, which portion, if treated as a separate~~

~~employing unit, would be, at the time of the succession or acquisition, a subject employer under subsection (1), (2), or (5) of this section].~~

- (b) ***Any employing unit that at the time of acquisition of all or part of a trade or business of a subject employer is not or has not previously been a subject employer.***
- (8) Any employing unit for which service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be a "subject employer" under this chapter.
- (9) Any employing unit which has elected to become subject to this chapter, pursuant to subsection (3) of KRS 341.250.
- (10) For purposes of subsections (1) through (6) of this section, covered employment shall include service which would constitute covered employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into (in accordance with KRS 341.145) by the secretary and an agency charged with the administration of any other state or federal unemployment compensation law.
- (11) Any employing unit which, having become a subject employer under subsections (1) through (9) of this section, has not ceased to be a subject employer under KRS 341.250.
- (12) For purposes of subsections (2), (4), and (5) of this section, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another week.
- (13) Notwithstanding the provisions of this section or any other provision of this chapter, no employing unit shall be initially determined a subject employer on the basis of covered employment performed more than five (5) calendar years prior to the year in which such determination is made, unless the secretary can show that the records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under this chapter.

➔Section 2. KRS 341.190 is amended to read as follows:

- (1) ***As used in this section:***
- (a) ***"Agent" means one who acts for or in the place of an individual, an employing unit, or a public official by the authority of that individual, employing unit, or public official; and***
- (b) ***"Public official" means an official, agency, or public entity within the executive branch of federal, state, or local government who or which has responsibility for administering or enforcing a law, or an elected official in federal, state, or local government.***
- (2) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary of the Education and Workforce Development Cabinet considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his or her authorized representatives at any reasonable time and as often as necessary.
- (3)~~(2)~~ The secretary may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid-off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary considers necessary to the effective administration of this chapter.
- (4)~~(3)~~ Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below ***and in subsections (5) and (6) of this section:***
- (a) 1. ***Public officials and the agents and contractors of public officials, [Information and records may be made available to public employees] in the performance of their official duties, may be provided information and records, but the public officials [agency] receiving the information and records shall assure the confidentiality, as required in this section, of all information and***

records so released. *Official duties do not include solicitation of contributions or expenditures to or on behalf of a candidate for public office or a political party;*

2. *A contractor shall include a temporary staffing engaged by the cabinet for any purpose in connection with the administration of this chapter; and*
 3. *Disclosures shall be made under this subsection only if the recipient has entered into a written, enforceable and terminable agreement with the cabinet and has satisfied the safeguards set forth in federal statutes and regulations*~~[by entering into a written, enforceable, and terminable agreement with the cabinet and by satisfying the safeguards set forth in the federal confidentiality and disclosure requirements as prescribed by 42 U.S.C. sec. 503, 26 U.S.C. sec. 3304, and 20 C.F.R. sec. 603.9];~~
- (b) 1. *An individual*~~[A claimant]~~ or employing unit ~~[or his legal representative]~~ shall be provided, upon request, information and records maintained by the cabinet in the administration of *wage records*,~~[his]~~ claim,~~[his]~~ reserve account, ~~[his]~~ reimbursing employer account, or any proceeding under this chapter to which *it is*~~[he is]~~ a party.~~[;]~~
2. *An agent of an individual or employing unit shall be provided the individual's or employing unit's information and records upon the presentation of a written release or other legally enforceable evidence of the informed consent of the individual or employing unit.*
 3. *An attorney retained by an individual or employing unit in any proceeding under this chapter shall be provided the individual's or employing unit's information and records if the attorney asserts in writing that he or she is representing that individual or employing unit.*
 4. *An elected official performing constituent services shall be provided the individual's or employing unit's information and records if the official presents reasonable written evidence that the individual or employing unit has authorized the disclosure;*
- (c) *A third party other than an agent, or third party on an ongoing basis, shall be provided the individual or employing unit's information and records if the individual or employing unit to whom the information pertains provides a signed written release which shall specify:*
1. *The information and records to be disclosed;*
 2. *The purpose for which the information and records are sought, specifying the expected service or benefit to the individual signing the release, or specifying their use in the administration or evaluation of the public program to which the release pertains;*
 3. *Assurance that the information and records shall be used solely for that purpose;*
 4. *All parties who may receive the information and records disclosed; and*
 5. *That state government files shall be accessed to obtain information and records.*
- Disclosures shall be made under this subsection only if the recipient has entered into a written, enforceable, and terminable agreement with the cabinet and has satisfied the safeguards set forth in federal statutes and regulations;*
- (d) *Precedential orders issued by the Unemployment Insurance Commission shall be released provided that Social Security numbers and employer identification numbers have been removed and the disclosure is otherwise consistent with federal and state law;*
- ~~(e)(c)~~ A public official with authority under state or federal law to obtain the information and records by subpoena, other than a clerk of court on behalf of a litigant, shall be provided information and records upon service of a duly issued subpoena;
- ~~(f)(d)~~ A federal official, when required for the purposes of oversight and auditing of the unemployment insurance program, shall be provided information and records;
- ~~(g)(e)~~ Statistical information derived from information and records obtained or made by the cabinet may be *released to the Bureau of Labor Statistics under a cooperative agreement or may be published*, if it in no way reveals the identity of any *individual*~~[claimant]~~ or employing unit; and
- ~~(h)(f)~~ Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence

information ~~and for~~ records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

(5)(4) Disclosures shall be made under subsection (4)(3) of this section only if:

- (a) The disclosure is necessary for the proper administration of the unemployment insurance program;
- (b) No more than an incidental amount of staff time or a nominal processing cost is required to make the disclosure; or
- (c) The cost of providing the information and records is paid by the recipient prior to the disclosure, consistent with federal laws and regulations, except this requirement shall not apply to disclosures made under subsection (4)(3)(e) and (f) of this section **nor to disclosures made under subsection (4)(e) and (h) of this section** if the cabinet attempts without success to recover the cost of disclosure. For disclosures made to **other public officials**~~public employees~~ under subsection (4)(3)(a) of this section, this requirement shall be met if the **recipient**~~agency~~ provides a reciprocal benefit to the cabinet in the administration of the unemployment insurance program, or if a reasonable reimbursement for the disclosure shall be determined under federal law.

(6)(5) **Recipients of information and records disclosed under subsection (4)(a) and (c) of this section may redisclose the information and records only as follows:**

- (a) **To the individual or employing unit who is the subject of the information and records;**
- (b) **To an attorney or duly authorized agent representing the individual or employing unit;**
- (c) **In any civil or criminal proceedings for or on behalf of the recipient;**
- (d) **In response to a subpoena but only as provided in paragraphs (e) and (h) of subsection (4) of this section;**
- (e) **A public official may redisclose to an agent or contractor, but only if the public official retains responsibility for the uses of the confidential information and records by the agent or contractor and subject to the safeguards set forth in the agreement required under subsection (4) of this section;**
- (f) **A public official may redisclose to another public official;**
- (g) **A state or local child support enforcement agency may redisclose to its agent under contract for the purpose of carrying out child support enforcement;** or
- (h) **When specifically authorized by a written release for redisclosure that meets the requirements of paragraph (c) of subsection (4) of this section.**

(7) Any disclosure or use of information and records that is inconsistent with the provisions of this section shall be subject to the penalty prescribed in KRS 341.990(11).

(8)(6) No information ~~and for~~ records held confidential under subsection (4)(3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

➔Section 3. KRS 341.540 is amended to read as follows:

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

- (a) "Substantially common" or "substantially the same" means that one (1) or more individual or individuals own or exercise pervasive management or control over both the predecessor and successor employing unit. Factors indicating pervasive management or control include, but are not limited to, whether the predecessor and successor share:
 - 1. One (1) or more individuals or family members **as owners**~~in positions of management or ownership~~, on boards of directors, ~~or~~ as shareholders, or executive or other officers; and
 - 2. Titles to property, parent companies, workforce, assets, legal and professional representation, physical location, client pools, marketing services, Web sites, telephone numbers, or e-mail addresses;
- (b) "Trade" or "business" includes the employing unit's workforce;

- (c) "Knowingly" means having actual knowledge of, or acting with deliberate ignorance or disregard for, the prohibition involved; and
 - (d) "Violates" or "attempts to violate" includes, but is not limited to, intended evasion, misrepresentation, or willful nondisclosure.
- (2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its trade or business ~~to another employing unit~~, the acquiring employing unit shall be deemed a successor if the transfer is in accordance with administrative regulations promulgated by the secretary, or if the transferring and acquiring employing units have substantially the same **pervasive management**, ownership, ~~management~~, or control. If an employing unit is deemed a successor, the transferring employing unit shall be deemed a predecessor.
- (b) *For the purpose of this chapter, if a nonsubject employer acquires all or part of the trade or business of a subject employer, the nonsubject employer shall file an application with the Office of Employment and Training, Department of Workforce Investment to establish an unemployment reserve account within forty-five (45) days of employing personnel. The application will be considered and processed in accordance with administrative regulations promulgated by the secretary and shall require information necessary to determine whether the nonsubject employer is a successor of the subject employer and to establish an initial unemployment contribution rate for the employer. Factors to be considered in the determination of successorship and the fixing of the initial rate shall include but not be limited to the employer's prior unemployment claims history, benefit charges, historical rate charges, and payment penalties assessed in the previous five (5) years, in addition to the factors set forth in subsection (6)(b) of this section. After consideration of these factors, and others that the applicant may submit in justification of an initial rate determination, the secretary shall set an appropriate contribution rate. Any determinations of initial unemployment contribution rates made pursuant to this subsection shall not be effective prior to January 1, 2018.*
- (3) (a) *Notwithstanding subsection (2)(b) of this section, any successor to the trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor of the delinquency within six (6) months after the department has notice of the succession; and*
- (b) *Any nonsubject employer that is deemed a successor in whole or part upon submission of the application referred to subsection (2)(b) of this section shall be allowed to make a one (1) time voluntary payment to pay off or reduce the negative reserve assumed from the predecessor. This payment shall be made within sixty (60) days of receipt of the first notice of a negative predecessor reserve account. This one (1) time voluntary payment cannot exceed the amount of negative reserve assumed by the successor.*
- (4) The liability for delinquent contributions and interest imposed upon the successor by subsection (3) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on the judgment shall be as follows:
- (a) Against the assets, both real and personal, of the predecessor or predecessors;
 - (b) Against the assets, both real and personal, of the business acquired; and
 - (c) Against the assets, both real and personal, of the successor or acquirer.
- (5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor to a portion of the trade or business of a subject employer, who is, or by reason of the transfer becomes, a subject employer, shall assume the resources and liabilities of the predecessor's reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters preceding the date of transfer for workers employed by the successor subsequent to that date. The taxable payroll, benefit charges and the potential benefit charges shall be assumed by the successors in a like proportion.
- (b) Notwithstanding the provisions of paragraph (a) of this subsection, if any employing unit succeeds to a portion of the trade or business of another employing unit; becomes, by reason of that succession, a subject employer with substantially the same ownership, management, or control as the predecessor employing unit; and lays off or terminates more than one-half (1/2) of the original employees

transferred within six (6) months of the date of transfer; then the succession and creation of the new employing unit shall be voided, and the benefits attributable to the lay-offs or terminations shall be charged to the reserve account of the original employing unit.

- (6) (a) The contribution rate of a successor in whole or in part, which was a subject employer prior to succession, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which succession occurred; except that the rate of the successor shall be recalculated and made effective upon the first day of the calendar quarter immediately following the date of the transfer if there is substantially common ownership, management, or control of the predecessor and successor.
- (b) The contribution rate of a successor in whole or in part, which was not a subject employer prior to succession, shall be ***determined by a review of the application required by subsection (2)(b) of this section,*** ~~for the calendar year in which succession occurred, the same rate as that of its predecessor;~~ except if the secretary finds, after a thorough investigation based on the use of objective factors, including but not limited to:
 - 1. The cost of acquiring the business;
 - 2. How long the original business enterprise was continued; and
 - 3. Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity prior to acquisition;

that the succession was solely for the purpose of obtaining a rate lower than that prescribed in KRS 341.270(1) and 341.272 for a new employing unit, then the unemployment experience of the predecessor shall not be transferred, the rate for a new employing unit shall be assigned, and the employing unit shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and subsection (3) of this section.
- (c) The contribution rate for a successor which becomes a subject employer through the simultaneous transfer, either in whole or in part, of two (2) or more predecessor reserve accounts shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to as of the computation date for determining rates for the calendar year in which succession occurred.
- (d) The contribution rate of a successor which succeeds, either in whole or in part, to a predecessor's reserve account after a computation date, but prior to the beginning of the calendar year immediately following that computation date, shall be the rate determined in accordance with KRS 341.270, by effecting the transfer of the reserve account as of the computation date immediately preceding the date of succession.
- (7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that knowingly violates or attempts to violate the provisions of this section or any other provision of the chapter related to determining the assignment of a contribution rate shall be the highest rate assignable under this chapter for the calendar year during which the violation or attempted violation occurred and the three (3) calendar years immediately following that year. If that employer's rate is already at the highest assignable rate, or if the amount of increase in the employer's rate would be less than an additional two percent (2%) for that year, then a penalty rate of contributions of an additional two percent (2%) of taxable wages shall be imposed for each year.
- (8) In addition to the penalties prescribed in subsection (7) of this section and KRS 341.990(9), any person who knowingly violates this section shall be subject to the penalties stipulated under KRS 341.990.
- (9) (a) The secretary shall establish procedures to identify the transfer of a business for purposes of this section.
- (b) ***The secretary shall have the authority and discretion to set a contribution rate upon the providing of justification by a subject employer and consideration of relevant factors, including but not limited to the factors set forth in subsections (2) and (6)(a) of this section.***

➔Section 4. KRS 341.614 is amended to read as follows:

- (1) Effective January 1, 2014, there shall be a surcharge upon all subject contributing employers for any year there are insufficient funds in the unemployment compensation administration fund for the payment of interest on advances under Title XII of the Social Security Act or for the repayment of money, including any interest thereon, received from any source related to the payment of interest on such advances.

- (2) (a) The surcharge shall be twenty-two hundredths of one percent (0.22%) of the first nine thousand six hundred dollars (\$9,600) in wages paid to each worker by a subject contributing employer or his predecessor with respect to covered employment during any calendar year.
- (b) Effective January 1, 2015, and each calendar year thereafter, the secretary shall adjust the surcharge percentage rate based on any increase to the taxable wage base for that calendar year as provided in KRS 341.030(7). The purpose of the adjustment shall be to maintain costs per worker comparable to the original surcharge. Any reduction in the surcharge percentage rate shall correspond to the increase to the taxable wage base for that calendar year and shall be rounded up to the nearest one-hundredth of one percent (0.01%).
- (c) Notwithstanding paragraph (b) of this subsection, the secretary may reduce the surcharge percentage rate or suspend the surcharge for any calendar year based on the balance of the unemployment insurance interest payment fund and the projected amount due for interest on advances under Title XII of the Social Security Act and for repayment of money, including any interest thereon, received from any source related to the payment of interest on such advances.
- (3) The surcharge established in this section shall be due and payable at the same time and in the same manner as employer contributions. Any surcharge collected shall be deposited in the unemployment insurance interest payment fund.
- (4) Any surcharge unpaid on the date on which it is due and payable, pursuant to subsection (3) of this section, shall be subject to interest at the rate of one and one-half percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such surcharge, from and after such date until payment is received by the cabinet, regardless of whether such delinquency has been reduced to a judgment or not as provided in subsection (6) of this section or is the subject of an administrative appeal or court action. The interest collected shall be deposited in the unemployment insurance interest payment fund.
- (5) A lien of the same nature and having the same force, effect, and priority as provided in KRS 341.310 shall commence on all property of a subject contributing employer delinquent in the payment of any surcharge or interest thereon.
- (6) If, after due notice, any subject contributing employer defaults in payment of any surcharge or interest thereon, the amount due may be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending on the jurisdictional amount in controversy, including interest and penalties, in the name of the state, and the subject contributing employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date and shall be entitled to preference on the calendar of the court over all other civil actions, except petitions for judicial review under this chapter and cases arising under the Kentucky workers' compensation law.
- (7) At or after the commencement of an action under subsection (6) of this section, attachment may be had against the property of the liable subject contributing employer for such surcharge and interest without execution of a bond, or, after judgment has been entered, an execution may be issued against the property of such employer without the execution of a bond.
- (8) An action for the recovery of a surcharge or interest thereon under this section shall be barred, and any lien therefor shall be canceled and extinguished, unless collected or suit for collection has been filed within ten (10) years from the due date of such surcharge.
- (9) Notwithstanding subsection (6) of this section, any delinquent surcharge or interest thereon may be collected in accordance with the levy and distraint provisions of this chapter.
- (10) ***Any delinquent surcharge or interest collected after July 31, 2017, shall not be subject to the credit provisions contained in KRS 341.612 and shall be deposited into the penalty and interest account.***

➔Section 5. KRS 341.990 is amended to read as follows:

- (1) Except as otherwise provided in subsection (11) of this section, any employee of any state agency who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.
- (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.
- (3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

- (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- (5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony.
- (6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony.
- (b) Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.
- (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the Office of Employment and Training, Department of Workforce Investment.
- (8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.
- (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether or not an employing unit, who knowingly advises or assists an employing unit in the violation or attempted violation of KRS 341.540 or any other provision of this chapter related to determining the assignment of a contribution rate shall be subject to a civil monetary penalty of not less than five thousand dollars (\$5,000).
- (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS 341.540 shall be deposited in the unemployment compensation administration account and shall be expended solely for the cost of administration of this chapter consistent with KRS 341.240.
- (11) Any person who violates the confidentiality provision in KRS 341.190(4)~~(3)~~ shall be guilty of a Class A misdemeanor.

Signed by Governor March 27, 2017.

CHAPTER 134

(HB 378)

AN ACT relating to the Labor Cabinet.

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

➔Section 1. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.
- (6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.
- (8) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (9) The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.
- (10) ***The report shall be made available without subpoena to the Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.***
- (11) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

➔Section 2. KRS 336.020 is amended to read as follows:

- (1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the Division of

~~Employment Standards,]~~ [Employment Standards,] Apprenticeship ~~and Mediation]~~, the Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of **Wages and Hours**~~Workers' Compensation Funds]~~. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.

- (2) The Department of Workers' Claims shall be headed by a commissioner ~~who is nominated by the Workers' Compensation Nominating Commission,]~~ appointed by the Governor, and confirmed by the Senate in accordance with KRS ~~342.213 and]~~ [342.213 and] 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Office of General Counsel for Workers' Claims, the Division of Claims Processing, the Division of Information and Research, the Division of Security and Compliance, and the Division of Ombudsman and Workers' Compensation Specialist Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the ~~secretary~~ ~~commissioner]~~ and approved by the Governor in accordance with KRS 12.050 ~~and 342.230]~~ [and 342.230]. The **Workers' Compensation Board shall be** ~~following agencies are]~~ attached to the Department of Workers' Claims for administrative purposes only~~;~~

- ~~(a) — Workers' Compensation Board;~~
- ~~(b) — Workers' Compensation Advisory Council; and~~
- ~~(c) — Workers' Compensation Nominating Commission].~~

- (3) The Office of General Counsel for the Labor Cabinet and the Division of Management Services are attached to the Office of the Secretary of the Labor Cabinet.

➔Section 3. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Commissioner" means the commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) "Department" means the Department of Workplace Standards in the Labor Cabinet;
 - (c) 1. "Wages" includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States, ~~for~~ checks on banks, **direct deposits, or payroll cards accounts** convertible into cash on demand at full face value, subject to the allowances made in this chapter. **However, an employee may not be charged an activation fee and the payroll card account shall provide the employee with the ability, without charge, to make at least one (1) withdrawal per pay period for any amount up to and including the full account balance;**
 - 2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210(5), "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210(6), "wages" shall include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
- (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 - 1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his or her employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community board for mental health or individuals with an intellectual disability established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care;
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
- (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
- (c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and
- 2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he or she shall not designate less than an entire county as a locality;
- (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and
- (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.
- (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

➔Section 4. KRS 336.050 is amended to read as follows:

- (1) The secretary in person or by representative shall:

- (a)~~[(1)]~~ Investigate and ascertain the wages of all employees employed in this state;
- (b)~~[(2)]~~ Enter the place of business or employment of any employer of employees to examine and inspect all books, registers, payrolls, and other records that have a bearing upon the question of wages of employees and to ascertain whether the orders of the secretary are complied with; *and*
- (c)~~[(3)]~~ Require from the employer a full and correct statement in writing when the secretary or the secretary's representative considers it necessary, of the wages paid to all employees in his or her employment.~~[-, and]~~

- (2)~~[(4)]~~ *The secretary in person or by representative may*~~[-upon complaint,]~~*[upon complaint,] prosecute any violation of any of the provisions of any law which it is his or her duty to administer or enforce. The secretary may enter into reciprocal agreements with the corresponding labor agency or official of any other state to collect in the other state claims assigned to the secretary. To the extent allowed by a reciprocal agreement, the secretary may maintain actions in the courts of another state to collect claims and judgments for wages and*

assign claims and judgments to the agency or official of another state for collection. If a reciprocal agreement extends a like comity to cases arising in the Commonwealth, the secretary may maintain actions in the courts of the Commonwealth to collect claims and judgments for wages arising in the other state in the same manner and to the same extent that actions are authorized when arising in the Commonwealth.

➔Section 5. KRS 337.070 is amended to read as follows:

All employers who employ ten (10) or more and pay their employees by check or otherwise, making deductions from the salaries and wages due said employees, shall state specifically the amount for which the deductions are made, and each such employer at the time of payment of salary or wage to each employee shall furnish the employee a ***paper or electronic*** statement giving the amount of each deduction and the general purpose for which the deduction is made. ***If an employer provides an electronic statement, then the employer shall provide access to a computer and printer for review and printing by the employee.***

➔Section 6. KRS 342.0011 is amended to read as follows:

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

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

1. Total and permanent loss of sight in both eyes;
 2. Loss of both feet at or above the ankle;
 3. Loss of both hands at or above the wrist;
 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
 5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
 6. Incurable insanity or imbecility; or
 7. Total loss of hearing;
- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits;
- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits;
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits;
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- (16) "Person" means any individual, partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, or legal representative thereof;
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns;
- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations, including the sale of produce at on-site markets and the processing of produce for sale at on-site markets. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market;
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter;
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States;
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien;
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter;
- (23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.
- (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be

considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time;

- (24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group;
- (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.
- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
- (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium"

includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

- (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors;
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year;
- (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010;
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:
 - (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;
 - (b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Office of Employment and Training, Education and Workforce Development Cabinet. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;
 - (c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Office of Employment and Training data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122;
 - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying its own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying its own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews its application for certification to carry its own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification;
 - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry its own risk and is so certified, its premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary

to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then its premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1);

- (f) If an employer is certified to carry its own risk after having previously insured the risk, its premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry its own risk and has paid all amounts due for assessments upon premiums paid while insured, the employer shall be assessed only upon the premium calculated under this subsection;
 - (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection; and
 - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter;
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget;
 - (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System;
 - (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits;
 - (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth;
 - (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods;
 - (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy;
 - (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment";
 - (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b); and
 - (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in KRS 342.262:
 - (a) The fifth edition published by the American Medical Association; and
 - (b) For psychological impairments, Chapter 12 of the second edition published by the American Medical Association.

➔Section 7. KRS 342.122 is amended to read as follows:

- (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of ~~Employment Standards,~~ ~~Apprenticeship and the Division of Wages and Hours~~ ~~and Mediation~~ in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

- (b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.
 - (c) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.
 - (d) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.
- (2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.
 - (3) The assessments imposed by this section may be collected by the insurance carrier from the insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.
 - (4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.
 - (5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.
 - (6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

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

➔Section 8. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges ~~and the commissioner~~ of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215~~, 342.228,~~ and 342.230 by choosing from names presented to him or her by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years;
 - (b)
 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
 2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
 3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years;
 - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term; and
 - (d) The members shall annually select a chairman of the nominating commission.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The commissioner shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.

- (5) (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.
- (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) ~~[The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228.]~~ The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he or she shall vacate the position.
- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

➔Section 9. KRS 342.228 is amended to read as follows:

- (1) The Department of Workers' Claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance, and rehabilitation provisions in this chapter. The department shall be administered by a commissioner appointed by the Governor.~~[The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213.]~~[The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213.] The commissioner appointed by the Governor shall be subject to the consent of the Senate in accordance with KRS 11.160.
- (2) The commissioner shall have demonstrated knowledge and experience in the area of workers' compensation, public administration, and administrative law.

➔Section 10. KRS 342.230 is amended to read as follows:

- (1) ~~[The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges, and board members, shall be members of the classified service.]~~

- ~~(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him or her, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. [The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges, and board members, shall be members of the classified service.]~~
- ~~(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him or her, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims.]~~ The commissioner with the assistance of the board shall train and instruct the administrative law judges on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board and the administrative law judges; annually report the activities of the board and the administrative law judges to the Governor; and devote his or her full time to the duties of his or her office. The commissioner shall be paid a salary not less than the salary of a member of the board.
- ~~(2)(3)~~ The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- ~~(3)(4)~~ To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.
- ~~(4)(5)~~ The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge. A member of the board or an administrative law judge may be removed for good cause, including violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.
- ~~(5)(6)~~ Any vacancy in the term of an administrative law judge, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.
- ~~(6)(7)~~
- (a) ~~[Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. [Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end.] On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.]~~
- (b) ~~[Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. [Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were~~

~~appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end.}~~
~~On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.~~

- (7)(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars (\$3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. ~~{The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997.}~~ On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

➔Section 11. KRS 342.347 is amended to read as follows:

- (1) The commissioner or the commissioner's designee shall have power to examine the financial condition and affairs related to workers' compensation of any individual self-insureds and shall have free access to books and documents relating to the self-insurance activities of the entity. The commissioner shall so examine each individual self-insured not less frequently than once every four (4) years. Information obtained through the examination shall be exempt from disclosure, under KRS 61.878(1)(c) *or* (j).
- (2) All individual self-insured employers shall file with the commissioner a statement of financial condition audited by an independent certified public accountant on or before one hundred twenty (120) days from the end of the self-insured's fiscal year for the immediately preceding fiscal year.
- (3) The expense of examination shall be borne by the entity examined and shall include reasonable lodging and travel expenses of the commissioner's designees, and expert assistance as necessarily incurred in the examination.
- (4) The Department of Insurance shall approve the form and contents of excess insurance policies and upon request of the commissioner shall review the application for approval of any individual self-insured and render an opinion as to the sufficiency of the excess insurance policies or other security posted by the applicant.
- (5) Not less often than biennially, the commissioner of the Department of Insurance shall review the activities, procedures, administrative regulations, and policies of the Department of Workers' Claims and make such recommendations to the Governor and legislative committees as may be appropriate to strengthen the oversight of individual self-insureds so that payment of liabilities to workers under this chapter is assured.

➔Section 12. KRS 12.020 is amended to read as follows:

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.

- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.

1. Kentucky Board of Education.
2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.

7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.
2. Division of Malt Beverages.
3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.*
 - b. Workers' Claims Legal Division.*
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of ~~[Employment Standards, [Employment Standards,]] Apprenticeship[, and Mediation]~~.

2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of *Wages and Hours*~~[Workers' Compensation Funds]~~.
- (e) Department of Workers' Claims.
1. ***Division of Workers' Compensation Funds***~~[Office of General Counsel for Workers' Claims]~~.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information *Services*~~[and Research]~~.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. ~~[Workers' Compensation Advisory Council]~~.
 9. ~~[Workers' Compensation Nominating Commission]~~.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.

- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.

- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.

11. Division of Resort Parks.
12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.

- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 13. The following KRS sections are repealed:

- 336.140 Secretary to investigate and mediate labor disputes.
- 336.151 Conciliation and mediation of labor disputes.
- 336.152 Minimizing labor disputes.
- 336.153 Disclosure by mediators prohibited.
- 336.156 Third parties to labor/management negotiations or arbitration -- Duties -- Regulations by secretary.
- 336.162 Kentucky Labor-Management Advisory Council.
- 336.164 Duties of council -- Staff support.
- 336.165 Grants-in-aid to labor-management relations organizations.
- 336.1661 Definitions.
- 336.1662 Duties of secretary.
- 336.1663 Arbitrators -- Relationship to cabinet and parties.
- 336.1664 Rules and regulations.

Signed by Governor March 27, 2017.

CHAPTER 135

(HB 374)

AN ACT relating to federally mandated background checks and declaring an emergency.

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

➔Section 1. KRS 17.165 is amended to read as follows:

- (1) As used in this section, "sex crime" means a conviction or a plea of guilty to a sex crime specified in KRS 17.500.
- (2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (4) *As used in this section, "criminal offense against a victim who is a minor" means a conviction of or a plea of guilty to a criminal offense against a victim who is a minor as specified in KRS 17.500(3).*
- (5)
 - (a) *Excluding a child care staff member pursuant to Section 4 of this Act, the provisions of this section shall apply to all applicants for initial employment in a position which involves care and supervision of a minor as a child-serving professional on or after the effective date of this Act.*
 - (b) *Each employer of an applicant for initial employment in a position which involves care and supervision of a minor as a child-serving professional shall request all conviction information for the applicant for employment from the Justice and Public Safety Cabinet or the Administrative Office of the Courts prior to employing the applicant*~~[No child care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice and Public Safety Cabinet or the Administrative Office of the Courts prior to employing the applicant].~~
 - (c) *This subsection shall not be construed to apply to an employer of a minor.*
- ~~(6) (5)~~ *No employee in a position which involves care and supervision of a minor as a child-serving professional pursuant to subsection (5) of this section*~~[child care provider that is required to be certified~~

~~under KRS 199.8982 or that receives a public child care subsidy administered by the cabinet or an adult who resides on the premises of the child care provider and has direct contact with a minor}~~ shall have been convicted of a violent crime, ***a criminal offense against a victim who is a minor***, or a sex crime, or have been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.

(7)~~((6))~~ Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(8)~~((7))~~ Any request for records under subsection (5)~~((4))~~ of this section shall be on a form approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.}

~~(8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.~~

➔Section 2. KRS 199.011 is amended to read as follows:

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

- (1) "Secretary" means the secretary for health and family services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;
- (7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (8) "Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;
- (9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;
- (12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption;
- (14) ***"Rap back system" means a system that enables an authorized entity to receive ongoing status notifications of any criminal history from the Department of Kentucky State Police or the Federal Bureau of***

Investigation reported on an individual whose fingerprints are registered in the system, upon approval and implementation of the system;

(15) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10); and

(16)~~(15)~~ "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

- (a) Date, time, and place of the execution of the consent;
- (b) Name of the child, if any, to be adopted and the date and place of the child's birth;
- (c) Consenting person's relationship to the child;
- (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
- (e) A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.
 - 1. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail.
 - 2. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail;
- (f) Disposition of the child if the adoption is not adjudged;
- (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
- (h) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
- (i) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

➔Section 3. KRS 199.462 is amended to read as follows:

- (1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:
 - (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; or
 - (b) Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice and Public Safety Cabinet shall furnish the information to the Cabinet for Health and Family Services and shall also send a copy of the information to the applicant.
- (2) The request for records shall be *in a manner*~~on a form~~ approved by the Justice and Public Safety Cabinet, and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

- (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Health and Family Services may:
 - (a) Require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section; *or*
 - (b) ***Register each adult household member of a certified adoptive or foster home under subsections (1) and (2) of this section in the rap back system.***
- (4) The Cabinet for Health and Family Services shall promulgate an administrative regulation to implement this section.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) ***For the purposes of this section, "child care staff member" has the same meaning as in 42 U.S.C. sec. 9858f and the implementing federal rules.***
- (2) ***The cabinet shall require a child care staff member to submit to background checks in accordance with 42 U.S.C. sec. 9858f and the implementing federal rules, including national and state fingerprint-supported criminal background checks by the Department of Kentucky State Police and the Federal Bureau of Investigation.***
- (3) ***The child care staff member shall provide the member's fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted.***
- (4) ***The results of the national and state criminal background checks shall be sent to the cabinet.***
- (5) ***The cabinet may register a child care staff member in the rap back system.***
- (6) ***The request for background checks shall be in a manner approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by a child care staff member for the actual cost of processing the request.***
- (7) ***Any fee charged by the Department of Kentucky State Police or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the criminal background check and rap back system ongoing status notification.***
- (8) ***The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.***

➔Section 5. KRS 199.896 is amended to read as follows:

- (1) No person, association, or organization shall conduct, operate, maintain, or advertise any child-care center without obtaining a license as provided in KRS 199.892 to 199.896.
- (2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for a child-care center, criteria for the denial of a license if criminal records indicate convictions that may impact the safety and security of children in care, and procedures for enforcement of penalties.
- (3) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars (\$50) and shall be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars (\$25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.
- (4) No child-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.
- (5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:
 - (a) A statement of fact;

- (b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and
 - (c) The timeframe, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.
- (6) The Cabinet for Health and Family Services, in consultation with the Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.
- (7) A child-care center shall have the right to appeal to the Cabinet for Health and Family Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.
- (8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:
- (a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;
 - (b) The number and type of previous violations of the child-care center;
 - (c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and
 - (d) The amount of assessment necessary to assure immediate and continued compliance.
- (9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:
- (a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;
 - (b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;
 - (c) Institute action to discontinue payment of child-care subsidies; or
 - (d) Suspend or revoke the license or impose other penalties provided by law.
- (10) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of child-care center license of the operator. Identifying information regarding children and their families shall remain confidential.
- (11) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the child-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the child-care center upon the parent's, custodian's, guardian's, or other interested person's request.
- (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and certification applications shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.
- (13) Any advertisement for child-care services shall include the address of where the service is being provided.
- (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for Health and Family Services shall be unannounced.

- (15) All employees and owners of a child-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:
 - (a) Basic health, safety, and sanitation;
 - (b) Recognizing and reporting child abuse; and
 - (c) Developmentally appropriate child-care practice.
- (16) All employees and owners of a child-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development. These hours shall include but are not limited to one and one-half (1.5) hours one (1) time every five (5) years of continuing education in the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric head trauma approved by the secretary of the Cabinet for Health and Family Services. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.
- (17) The Cabinet for Health and Family Services shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (15) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (15) of this section.
- (18) Child-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.
- (19) Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than fifteen (15) hours per week shall:
 - (a) Notify the cabinet in writing that the center is operating;
 - (b) Meet all child-care center licensure requirements and administrative regulations related to employee background checks;
 - (c) Meet all child-care center licensure requirements and administrative regulations related to tuberculosis screenings; and
 - (d) Be exempt from all other child-care center licensure requirements and administrative regulations.
- (20) Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than ten (10) hours per week shall be exempt from all child-care licensure requirements and administrative regulations.
- (21) Directors and employees of child-care centers in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with **Section 4 of this Act** ~~KRS 17.165. The application shall be denied if the applicant has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child or has been convicted of a violent crime or sex crime as defined in KRS 17.165.~~
- (22) A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

➔Section 6. KRS 199.8982 is amended to read as follows:

- (1) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:

1. Submit two (2) written character references;
 2. Provide a written statement from a physician or advanced practice registered nurse that the applicant is in good health;
 3. Submit to a criminal record check in accordance with *Section 4 of this Act*~~KRS 17.165. The application shall be denied if the applicant has been convicted of a violent crime or sex crime as defined in KRS 17.165;~~
 4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
 5. Provide a copy of the results of a tuberculosis risk assessment and the results of any appropriate follow-up with skin testing or chest X-ray for applicants who are determined to be at risk for developing tuberculosis in accordance with the recommendations of the Centers for Disease Control and Prevention within thirty (30) days of the date of application for certification; and
 6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
 - a. Basic health, safety, and sanitation;
 - b. Recognizing and reporting child abuse; and
 - c. Developmentally appropriate child-care practice.
- (b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar (\$10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars (\$10).
- (c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.
- (d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.
- (e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.
- (f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:
1. Certification requirements and procedures;
 2. Information about available child-care training; and
 3. Child-care food sponsoring organizations.

- (2) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development. These hours shall include but are not limited to one and one-half (1.5) hours one (1) time every five (5) years of continuing education in the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services. The one and one-half (1.5) hours of continuing education required under this section shall be included in the current number of required continuing education hours.
- (3) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (1)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (1)(a)6. of this section.

➔Section 7. KRS 17.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars (\$500), or both.
- (3) ~~(a) Any child care center which violates KRS 17.165(4) or child care provider that violates KRS 17.165(5) may be liable for license or certification revocation and the imposition of a civil penalty of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000) to be imposed and collected by the Cabinet for Health and Family Services; and~~
~~(b) In addition to penalties listed in this subsection, any child care center which violates KRS 17.165(4) or child care provider that violates KRS 17.165(5) shall be fined not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000).~~
- (4) Any person who violates KRS 17.545(2) shall be guilty of a Class A misdemeanor.

➔Section 8. Whereas the background checks authorized herein are vital for child safety and ensure ongoing federal funding compliance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2017.

CHAPTER 136

(HB 364)

AN ACT relating to pharmaceuticals.

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

➔Section 1. KRS 315.010 is amended to read as follows:

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

- (1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;
- (2) "Administrative activities of a pharmacy" means the following functions performed by a pharmacy adhering to all local, state, and federal patient privacy laws:
 - (a) Investigating and researching a patient's insurance benefits and updating the patient profile regarding insurance coverage;
 - (b) Billing and collections activities, including:
 1. Contacting patients for copayments and coinsurance payments; and

2. Communicating with insurance companies;
- (c) Performing patient financial assistance activities and updating patient records accordingly;
- (d) Opening faxes and accessing electronic prescriptions for the purposes of setting up patient demographic and insurance profiles, excluding height, weight, and allergy information, so long as the activity does not involve the entering of a prescription order into the dispensing or medication management system;
- (e) Initiating insurance prior authorizations for submission to the licensed pharmacy, including communications with the prescribing physician to collect, record, and transmit information to insurance companies, so long as the activity does not include the authorization or receipt of new or refill prescription orders;
- (f) Answering and transferring telephone calls, whether or not such calls require accessing a patient record, so long as the call does not involve the interpretation, evaluation, or implementation of a drug order; and
- (g) Communicating with patients via telephone or electronically regarding refill reminders, so long as the communication does not involve the interpretation, evaluation, or implementation of a drug order and a pharmacist is readily available for patient consultation;
- (3) "Association" means the Kentucky Pharmacists Association;
- (4) "Board" means the Kentucky Board of Pharmacy;
- (5) "Collaborative care agreement" means a written agreement between a pharmacist or pharmacists and a practitioner or practitioners that outlines a plan of cooperative management of patients' drug-related health care needs where:
 - (a) Patients' drug-related health care needs fall within the practitioner's or practitioners' statutory scope of practice;
 - (b) Patients are referred by the practitioner or practitioners to the pharmacist or pharmacists; and
 - (c) The agreement:
 1. Identifies the practitioner or practitioners and the pharmacist or pharmacists who are parties to the agreement;
 2. Specifies the drug-related regimen to be provided, and how drug therapy is to be monitored; and
 3. Stipulates the conditions for initiating, continuing, or discontinuing drug therapy and conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;
- (6) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order, including but not limited to packaging, intravenous admixture or manual combination of drug ingredients. "Compounding," as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;
- (7) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;
- (8) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;
- (9) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;
- (10) "Drug" means any of the following:
 - (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto;
 - (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals;
 - (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

- (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;
- (11) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to the following areas:
 - (a) Evaluation of prescription drug orders and patient records for:
 - 1. Known allergies;
 - 2. Rational therapy contraindications;
 - 3. Appropriate dose and route of administration;
 - 4. Appropriate directions for use; or
 - 5. Duplicative therapies.
 - (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
 - (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
 - (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;
- (12) "Immediate supervision" means under the physical and visual supervision of a pharmacist;
- (13) "Manufacturer" *or* "virtual manufacturer" of a product means:
 - (a) *A person that holds an application approved under 21 U.S.C. sec. 355 or a license issued under 42 U.S.C. sec. 262 for such product, or if such product is not the subject of an approved application or license, the person who manufactured the product;*
 - (b) *A co-licensed partner of the person described in paragraph (a) of this subsection that obtains the product directly from a person described in this paragraph or paragraph (a) of this subsection;*
 - (c) *An affiliate of a person described in paragraph (a) or (b) of this subsection who receives the product directly from a person described in this paragraph or in paragraph (a) or (b) of this subsection*~~means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion, or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container~~; *or*
 - (d) *Any person, except a pharmacist compounding in the normal course of professional practice;*
- (14) "Medical order" means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;
- (15) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;
- (16) "Outsourcing facility" *means a facility at one (1) geographic location or address that:*
 - (a) *Is engaged in the compounding of human sterile drugs without a patient-specific prescription;*
 - (b) *Has registered as an outsourcing facility with the secretary of the United States Department of Health and Human Services, Food and Drug Administration; and*
 - (c) *Complies with all applicable state and federal requirements;*
- (17) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- ~~(18)~~~~(17)~~ "Pharmacist intern" means a natural person who is:
 - (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

- (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;
 - (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
 - (d) An individual participating in a residency or fellowship program approved by the board for internship credit;
- ~~(19)~~~~(18)~~ "Pharmacy" means every place where:
- (a) Drugs are dispensed under the direction of a pharmacist;
 - (b) Prescription drug orders are compounded under the direction of a pharmacist; or
 - (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;
- ~~(20)~~~~(19)~~ "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, and assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries, as well as those other activities falling within their statutory scope of practice;
- ~~(21)~~~~(20)~~ "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;
- ~~(22)~~~~(21)~~ "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; the administration of influenza vaccines to individuals nine (9) to thirteen (13) years of age pursuant to prescriber-approved protocols with the consent of a parent or guardian; the administration of immunizations to individuals fourteen (14) to seventeen (17) years of age pursuant to prescriber-approved protocols with the consent of a parent or guardian; the administration of immunizations to a child as defined in KRS 214.032, pursuant to protocols as authorized by KRS 315.500; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;
- ~~(23)~~~~(22)~~ "Practitioner" has the same meaning given in KRS 217.015(35);
- ~~(24)~~~~(23)~~ "Prescription drug" means a drug which:
- (a) Under federal law is required to be labeled with either of the following statements:
 - 1. "Caution: Federal law prohibits dispensing without prescription";
 - 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";
 - 3. "Rx Only"; or
 - 4. "Rx"; or
 - (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;
- ~~(25)~~~~(24)~~ "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements or protocols authorized by the board. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;
- ~~(26)~~~~(25)~~ "Society" means the Kentucky Society of Health-Systems Pharmacists;

- (27)~~(26)~~ "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and
- (28)~~(27)~~ "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A person shall not operate an outsourcing facility within this Commonwealth, physically or by means of the Internet, facsimile, phone, mail, or any other means, without first obtaining a permit from the board.*
- (b) *An application for a permit to operate an outsourcing facility shall be made to the board upon forms provided by the board and shall contain such information as the board requires, which may include affirmative evidence of the ability to comply with the requirements of this chapter and the administrative regulations promulgated by the board.*
- (c) *Each application shall be accompanied by a nonrefundable permit fee to be set by administrative regulation promulgated by the board, not to exceed five hundred dollars (\$500).*
- (2) (a) *As a prerequisite to obtaining or renewing a permit from the board, the outsourcing facility shall:*
1. *Register as an outsourcing facility with the United States Secretary of Health and Human Services in accordance with 21 U.S.C. sec. 353b; and*
 2. *Submit a copy of a current inspection report resulting from an inspection conducted by the United States Food and Drug Administration that indicates compliance with the requirements of state and federal law and regulations, including all applicable guidance documents and Current Good Manufacturing Practices published by the United States Food and Drug Administration.*
- (b) 1. *The inspection report required pursuant to paragraph (a)2. of this subsection shall be deemed current for the purposes of this section if the inspection was conducted no more than:*
- a. *One (1) year prior to the date of submission of an application for a permit to the board; or*
 - b. *Two (2) years prior to the date of submission of an application for renewal of a permit to the board.*
2. *If the outsourcing facility has not been inspected by the United States Food and Drug Administration within the period required under subparagraph 1. of this paragraph, the board may:*
- a. *Accept an inspection report or other documentation from another entity that is satisfactory to the board; or*
 - b. *Cause an inspection to be conducted by its duly authorized agent and charge an inspection fee in an amount sufficient to cover the costs of the inspection.*
- (3) (a) *Upon receipt of an application of a permit to operate an outsourcing facility accompanied by the permit fee prescribed by administrative regulation, the board shall:*
1. *Issue a permit if the outsourcing facility meets the requirements of this chapter and the administrative regulations promulgated by the board; or*
 2. *Refuse to issue or renew any permit to operate if the outsourcing facility fails to meet the requirements of this chapter and the administrative regulations promulgated by the board.*
- (b) *The board shall act upon an application for a permit to operate within thirty (30) days after the receipt of the application. The board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. The temporary permit shall be valid for a period of thirty (30) days, unless extended.*
- (4) *A separate permit to operate shall be required for each outsourcing facility.*
- (5) (a) *Each permit to operate an outsourcing facility, unless suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application*

accompanied by the renewal fee as established by administrative regulations promulgated by the board. The renewal fee shall not exceed five hundred dollars (\$500).

- (b) *An additional nonrefundable fee not to exceed the annual renewal fee may be assessed and set by administrative regulation as a delinquent renewal penalty for failure to renew by June 30 of each year.*
- (6) *Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable, except that a buyer may operate the outsourcing facility under the permit of the seller pending a decision by the board on an application, which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.*
- (7) *The board may promulgate administrative regulations to ensure:*
 - (a) *That proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular outsourcing facility; and*
 - (b) *Health and sanitation standards for areas within outsourcing facilities that adhere to Current Good Manufacturing Practices published by the United States Food and Drug Administration.*
- (8) *Each outsourcing facility shall comply with KRS 218A.202.*
- (9) *Each outsourcing facility shall compound in compliance with the requirements of state and federal law and regulations, including all applicable guidance documents and Current Good Manufacturing Practices published by the United States Food and Drug Administration.*
- (10) *A pharmacist may temporarily operate an outsourcing facility in an area not designated on the permit as authorized in KRS 315.500.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Each out-of-state outsourcing facility that does business physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth, shall hold a current outsourcing facility permit issued by the board.*
- (b) *An application for a permit to operate an out-of-state outsourcing facility shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with reasonable standards and regulations as may be prescribed by the board.*
- (c) *Each application shall be accompanied by a permit fee to be set by administrative regulation promulgated by the board. The fee shall not exceed:*
 - 1. *Two hundred fifty dollars (\$250); or*
 - 2. *The current in-state outsourcing facility permit.*
- (2) (a) *As a prerequisite to obtaining or renewing a permit from the board, the out-of-state outsourcing facility shall:*
 - 1. *Register as an outsourcing facility with the United States Secretary of Health and Human Services in accordance with 21 U.S.C. sec. 353b; and*
 - 2. *Submit a copy of a current inspection report resulting from an inspection conducted by the United States Food and Drug Administration that indicates compliance with the requirements of state and federal law and regulations, including all applicable guidance documents and Current Good Manufacturing Practices published by the United States Food and Drug Administration.*
- (b) 1. *The inspection report required pursuant to paragraph (b) of this subsection shall be deemed current for the purposes of this section if the inspection was conducted no more than:*
 - a. *One (1) year prior to the date of submission of an application for a permit to the board; or*
 - b. *Two (2) years prior to the date of submission of an application for renewal of a permit to the board.*

2. *If the out-of-state outsourcing facility has not been inspected by the United States Food and Drug Administration within the required period required under subparagraph 1. of this paragraph, the board may:*
 - a. *Accept an inspection report or other documentation from another entity that is satisfactory to the board; or*
 - b. *Cause an inspection to be conducted by its duly authorized agent and may charge an inspection fee in an amount sufficient to cover the costs of the inspection.*
- (3) (a) *Upon receipt of an application for a permit to operate an out-of-state outsourcing facility, accompanied by the permit fee required by subsection (1) of this section, the board shall:*
 1. *Issue a permit if the out-of-state outsourcing facility meets the requirements of this chapter and the administrative regulations promulgated by the board; or*
 2. *Refuse to renew any permit to operate unless the out-of-state outsourcing facility meets the requirements of this chapter and the administrative regulations promulgated by the board.*
- (b) *The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof. The board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. The temporary permit shall be valid for a period of thirty (30) days, unless extended.*
- (4) *A separate permit to operate shall be required for each out-of-state outsourcing facility.*
- (5) *Each out-of-state outsourcing facility granted an out-of-state outsourcing facility permit by the board shall disclose to the board the location, names, and titles of all its principal corporate officers and all its pharmacists who are dispensing prescription drugs to entities within the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist.*
- (6) (a) *An out-of-state outsourcing facility granted an out-of-state outsourcing facility permit shall comply with all requests for information within three (3) business days of a written request by the board or its agents.*
- (b) *An out-of-state outsourcing facility shall maintain at all times a valid unexpired permit, license, or registration to conduct the outsourcing facility in compliance with the laws of the jurisdiction in which it is a resident.*
- (c) *As a prerequisite to seeking a permit from the board, the out-of-state outsourcing facility shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state outsourcing facility granted a permit shall submit to the board a copy of any subsequent inspection report of the outsourcing facility conducted by the regulatory or licensing body of the jurisdiction in which it is located.*
- (7) *Each out-of-state outsourcing facility granted an out-of-state outsourcing facility permit by the board shall maintain records of any controlled substances or dangerous drugs.*
- (8) *Each out-of-state outsourcing facility shall, during its regular hours of operation, but not less than five (5) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state outsourcing facility for the purpose of facilitating communication. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to an entity within the Commonwealth.*
- (9) *An out-of-state outsourcing facility shall comply with KRS 218A.202.*
- (10) *An out-of-state outsourcing facility doing business within the Commonwealth of Kentucky shall use the address on file with the board as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner.*
- (11) (a) *A permit to operate an out-of-state outsourcing facility, unless suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by the nonrefundable renewal fee established by subsection (1) of this section.*

- (b) *An additional nonrefundable fee not to exceed the annual renewal fee may be assessed and set by administrative regulation as a delinquent renewal penalty for failure to renew by June 30 of each year.*
- (12) *Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable, except that a buyer may operate the out-of-state outsourcing facility under the permit of the seller pending a decision by the board on an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.*
- (13) *The board may promulgate administrative regulations to ensure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular out-of-state outsourcing facility.*
- (14) *Each out-of-state outsourcing facility shall compound in compliance with the requirements of state and federal law and regulations, to include all applicable guidance documents and Current Good Manufacturing Practices published by the United States Food and Drug Administration.*

➔Section 4. KRS 315.400 is amended to read as follows:

As used in KRS 315.400 to 315.412:

- (1) "Authorized distributor of record" means a wholesale distributor that:
 - (a) Has established an ongoing relationship with a manufacturer to distribute the manufacturer's prescription drug. An ongoing relationship exists between a wholesale distributor and a manufacturer if the wholesale distributor, including any affiliated group of the wholesale distributor as defined in Section 1504 of the Internal Revenue Code, has a written agreement for distribution in effect; and
 - (b) Is listed on the manufacturer's current list of authorized distributors of record;
- (2) ~~["Co-licensed partner" means two (2) or more entities that have the right to engage in the manufacturing or marketing or both of a prescription drug consistent with the Federal Drug Administration's implementation of the federal Prescription Drug Marketing Act;~~
- ~~(3) —]~~ "Co-licensed product" means a prescription drug manufactured by two (2) or more co-licensed partners;
- ~~(3) [(4)]~~ "Counterfeit prescription drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, the other drug manufacturer, processor, packer, or distributor;
- ~~(4) [(5)]~~ "Dispenser" means:
 - (a) *A retail pharmacy, hospital pharmacy, a group of chain pharmacies under common ownership and control that do not act as a wholesale distributor, or any other person authorized by law to dispense or administer prescription drugs, and the affiliated warehouse distribution centers of such entities under common ownership and control that do not act as a wholesale distributor; but*
 - (b) *Does not include a person who dispenses only products to be used in animals in accordance with 21 U.S.C. sec. 360b(a)(4) and (5);*
- (5) "Distribution" or "distribute" means the sale, purchase, trade, delivery, handling, storage, or receipt of a product, and does not include the dispensing of a product pursuant to a prescription executed in accordance with Section 503(b)(1) of the Federal Drug Quality and Security Act or the dispensing of a product approved under Section 512(b) of the Federal Drug Quality and Security Act;
- (6) "Drop shipment" means *a product not physically handled or stored by a wholesale distributor and that is exempt from Section 582 of the Federal Drug Quality and Security Act, except the notification requirements under clauses (ii), (iii), and (iv) of subsection (c)(4)(B) of Section 582 of the Federal Drug Quality and Security Act, provided that the manufacturer, repackager, or other wholesale distributor that distributes the product to the dispenser by means of a drop shipment for the wholesale distributor includes on the transaction information and transaction history to the dispenser the contact information of the wholesale distributor and provides the transaction information, transaction history, and transaction statement directly to the dispenser. Providing administrative services, including the processing of orders and payments, shall not by itself be construed as being involved in the handling, distribution, or storage of a*

~~product~~ [the sale of a prescription drug to a wholesale distributor by the drug's manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, the manufacturer's exclusive distributor, or by an authorized distributor of record that purchased the product directly from the manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, or the manufacturer's exclusive distributor, and;

~~(a) The wholesale distributor takes title to but not physical possession of the drug;~~

~~(b) The wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer a prescription drug; and~~

~~(c) The pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer a prescription drug receives delivery directly from the manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, the manufacturer's exclusive distributor, or an authorized distributor of record];~~

(7) ~~(6)~~ "Emergency medical reasons" includes but is not limited to:

(a) Transfers of a prescription drug between health-care entities or between a health-care entity and a retail pharmacy to alleviate a temporary shortage of a prescription drug arising from delays in or interruptions of the regular distribution schedules;

(b) Sales of drugs for use in the treatment of acutely ill or injured persons to nearby emergency medical services providers, firefighting organizations, or licensed health-care practitioners in the same marketing or service area;

(c) The provision of emergency supplies of drugs to nearby nursing homes, home health agencies, or hospice organizations for emergency use when necessary drugs cannot be obtained; or

(d) Transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(8) ~~(7)~~ "End user" means a patient or consumer that uses a prescription drug as prescribed by an authorized health-care professional;

(9) *"Exclusive distributor" means the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor, or dispenser;*

(10) ~~(8)~~ "FDA" means the United States Food and Drug Administration and any successor agency;

(11) *"Illegitimate product" means a product for which credible evidence shows that the product:*

(a) Is counterfeit, diverted, or stolen;

(b) Is intentionally adulterated so that the product would result in serious adverse health consequences or death to humans;

(c) Is the subject of a fraudulent transaction; or

(d) Appears otherwise unfit for distribution so that the product would be reasonably likely to result in serious adverse health consequences or death to humans;

(12) ~~(9)~~ "Manufacturer" means the same as defined in KRS 315.010;

(13) *"Medical gas wholesaler" means a person licensed to distribute, transfer, wholesale, deliver, or sell medical gases on drug orders to suppliers or other entities licensed to use, administer, or distribute medical gas;*

~~(14) ~~(10)~~ "Manufacturer's exclusive distributor" means a distributor who:~~

~~(a) Contracts with a manufacturer to provide or coordinate the warehousing, distributing, or other similar services on behalf of a manufacturer;~~

~~(b) Takes title of the prescription drug but does not have responsibility to direct the sale of the manufacturer's prescription drug;~~

~~(c) Is licensed under KRS 315.402; and~~

~~(d) Is an authorized distributor of record;~~

- (11) ~~"Normal distribution channel" means a chain of custody for a prescription drug from a manufacturer, a manufacturer's co licensed partner, a manufacturer's third party logistics provider, or a manufacturer's exclusive distributor that goes directly, by drop shipment or by intracompany transfer, to:~~
- ~~(a) A pharmacy or other designated person authorized by law to distribute a prescription drug to an end user;~~
 - ~~(b) A pharmacy warehouse that performs intracompany sales or transfers of prescription drugs to a group of pharmacies under common ownership and control to a patient, pursuant to a prescription for a patient, or to a person authorized by law to administer a prescription drug for use by a patient;~~
 - ~~(c) An authorized distributor of record:~~
 - ~~1. Then to a pharmacy or other designated person authorized by law to distribute a prescription drug to an end user;~~
 - ~~2. Then to a pharmacy warehouse as specified in paragraph (b) of this subsection; or~~
 - ~~3. Then to another authorized distributor of record to a licensed health care facility or pharmacy, or a practitioner authorized by law to distribute a prescription drug to an end user; or~~
 - ~~(d) A nonprofit organization under state contract to distribute prescription drugs to pharmacies pursuant to the state's emergency response plan and the subsequent distribution of those prescription drugs to pharmacies;~~
- (12) ~~"Pedigree" means a document or electronic file containing information that records each distribution of a prescription drug;~~
- (13) "Pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs to a group of pharmacies under common ownership and control;
- (15)(14) "Prescription drug" means the same as defined in KRS 315.010;
- (16)(15) ***"Repackager" means a person who owns or operates an establishment that repacks and relabels a product or package for further sale, or distribution without a further transaction;***
- (17) "Reverse distributor" means every person who acts as an agent for pharmacies, drug wholesalers, manufacturers, or other entities by receiving, taking inventory, and managing the disposition of outdated or nonsalable drugs;
- (18)(16) ***"Third-party logistics provider" means an entity that contracts with a manufacturer, **wholesale distributor, repackager, or dispenser** to provide **and** [or] coordinate [the] warehousing [distribution,] or other logistics [similar] services on behalf of a manufacturer, **wholesale distributor, repackager, or dispenser** but does not take title to the drug or have responsibility to direct the sale of the [manufacturer's] drug. A third-party logistics provider [who is a licensed wholesale distributor under KRS 315.402 and is a manufacturer's authorized distributor of record] shall be considered as part of the normal distribution channel;***
- (19) ***"Transaction" means the transfer of product between persons in which a change of ownership occurs, with the following exemptions:***
- (a) Intracompany distribution of any product between members of an affiliate or within a manufacturer;***
 - (b) The distribution of a product among hospitals or other health care entities that are under common control;***
 - (c) The distribution of a product for emergency medical reasons including a public health emergency declaration pursuant to Section 319 of the Federal Public Health Service Act, except that a drug shortage not caused by a public health emergency shall not constitute an emergency medical reason;***
 - (d) The dispensing of a product pursuant to a prescription executed in accordance with Section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act;***
 - (e) The distribution of product samples by a manufacturer or a licensed wholesale distributor in accordance with Section 503(d) of the Federal Food, Drug, and Cosmetic Act;***
 - (f) The distribution of blood or blood components intended for transfusion;***
 - (g) The distribution of minimal quantities of product by a licensed retail pharmacy to a licensed practitioner for office use;***

- (h) *The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;*
- (i) *The distribution of a product pursuant to the sale or merger of a pharmacy or pharmacies or a wholesale distributor or wholesale distributors, except that any records required to be maintained for the product shall be transferred to the new owner of the pharmacy or pharmacies or wholesale distributor or wholesale distributors;*
- (j) *The dispensing of a product approved under Section 512(c) of the Federal Food, Drug, and Cosmetic Act;*
- (k) *Products transferred to or from any facility that is licensed by the Nuclear Regulatory Commission or by the state pursuant to an agreement with the commission under Section 274 of the Federal Atomic Energy Act, 42 U.S.C. sec. 2021;*
- (l) *A combination product that is not subject to approval under Section 505 of the Federal Drug Quality and Security Act or licensure under Section 351 of the Federal Public Health Service Act, and that is:*
 - 1. *A product composed of a device and one (1) or more other regulated components such as a drug or drug device, a biologic or biologic device, or a drug and biologic or drug and biologic device that are physically, chemically, or otherwise combined or mixed and produced as a single entity;*
 - 2. *Two (2) or more separate products packaged together in a single package or as a unit and composed of a drug and device or device and biological product; or*
 - 3. *Two (2) or more finished medical devices plus one (1) or more drug or biological products that are packaged together in what is referred to as a medical convenience kit as described in subparagraph (m) of this section;*
- (m) *The distribution of a medical convenience kit or collection of finished medical devices which may include a product or biological product, assembled in kit form strictly for the convenience of the purchaser or user, if:*
 - 1. *The medical convenience kit is assembled in an establishment that is registered with the federal Food and Drug Administration as a device manufacturer in accordance with Section 510(b)(2) of the Federal Food, Drug, and Cosmetic Act;*
 - 2. *The medical convenience kit does not contain a controlled substance that appears in a schedule contained in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970;*
 - 3. *In the case of a medical convenience kit that includes a product, the person that manufactures the kit:*
 - a. *Purchased the product directly from the pharmaceutical manufacturer or from a wholesale distributor that purchased the product directly from the pharmaceutical manufacturer; and*
 - b. *Does not alter the primary container or label of the product as purchased from the manufacturer or wholesale distributor; and*
 - 4. *In the case of a medical convenience kit that includes a product, the product is:*
 - a. *An intravenous solution intended for the replenishment of fluids and electrolytes;*
 - b. *A product intended to maintain the equilibrium of water and minerals in the body;*
 - c. *A product intended for irrigation or reconstitution;*
 - d. *An anesthetic;*
 - e. *An anticoagulant;*
 - f. *A vasopressor; or*
 - g. *A sympathomimetic;*

- (n) *The distribution of an intravenous product that, by its formulation, is intended for the replenishment of fluids and electrolytes such as sodium, chloride, and potassium, or calories such as dextrose and amino acids;*
- (o) *The distribution of an intravenous product used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions;*
- (p) *The distribution of a product that is intended for irrigation, or sterile water, whether intended for such purposes or for injection;*
- (q) *The distribution of a medical gas as defined in Section 575 of the Federal Food, Drug, and Cosmetic Act; or*
- (r) *The distribution or sale of any licensed product under Section 351 of the Federal Public Health Service Act that meets the definition of a device under Section 201(h) of the Federal Food, Drug, and Cosmetic Act;*

(20)~~(17)~~ "Wholesale distribution" means the distribution of a prescription drug to persons other than an end user, but does not include:

- (a) Intracompany sales or transfers;
- (b) The sale, purchase, distribution, trade, or transfer of a prescription drug for emergency medical reasons;
- (c) The distribution of prescription drug samples by a manufacturer or authorized distributor;
- (d) Drug returns or transfers to the original manufacturer, original wholesale distributor, or transfers to a reverse distributor or third-party returns processor;
- (e) The sale, purchase, or trade of a drug pursuant to a prescription;
- (f) The delivery of a prescription drug by a common carrier;
- (g) The purchase or acquisition by a health-care entity or pharmacy that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization, or health-care entities or pharmacies that are members of the group organization;
- (h) The sale, purchase, distribution, trade, or transfer of a drug by a charitable health-care entity to a nonprofit affiliate of the organization as otherwise permitted by law;
- (i) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy with another pharmacy or pharmacies; or
- (j) The distribution of a prescription drug to a health-care practitioner or to another pharmacy if the total number of units transferred during a twelve (12) month period does not exceed five percent (5%) of the total number of all units dispensed by the pharmacy during the immediate twelve (12) month period; and

(21)~~(18)~~ "Wholesale distributor" or "*virtual wholesale distributor*" means *a person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or repackager engaged in wholesale distribution as defined by 21 U.S.C. sec. 353(e)(4) as amended by the Federal Drug Supply Chain Security Act*~~[an entity engaged in the wholesale distribution of prescription drugs, including but not limited to manufacturers, manufacturers' exclusive distributors, authorized distributors of record, drug wholesalers or distributors, third party logistics providers, third party returns processors, reverse distributors, and pharmacy warehouses and retail pharmacies that engage in the wholesale distribution of a prescription drug].~~

➔SECTION 5. A NEW SECTION OF KRS 315.400 TO 315.412 IS CREATED TO READ AS FOLLOWS:

- (1) *Each facility of a third-party logistics provider located within Kentucky shall be licensed by the board prior to shipping a prescription drug:*
 - (a) *Within the borders of Kentucky; or*
 - (b) *To a location outside the borders of Kentucky.*
- (2) *Licenses issued under subsection (1) of this section shall be renewed annually upon:*
 - (a) *Completion of an application; and*
 - (b) *Payment of a renewal fee as established by administrative regulations promulgated by the board.*

- (3) *A third-party logistics provider located in another state seeking to ship a prescription drug into Kentucky shall provide documentation upon request by the by the board or its staff that the third-party logistics provider is licensed as a third-party logistics provider by:*
 - (a) *The state from which the third-party logistics provider ships, if that state licenses third-party logistics providers; or*
 - (b) *The United States Food and Drug Administration.*
- (4) *A third-party logistics provider license shall be valid only for the name, ownership, and location listed on the license. Changes of name, ownership, or location shall require a new third-party logistics provider license.*
- (5) *Changes in information required for licensure shall be reported to the board, in writing, within ten (10) days of the change.*
- (6) *A third-party logistics provider shall not operate from a place of residence.*
- (7) *A third-party logistics provider facility shall be located apart and separate from any retail pharmacy licensed by the board.*
- (8) *A third-party logistics provider shall publicly display all licenses and have the most recent state and federal inspection reports readily available.*

➔SECTION 6. A NEW SECTION OF KRS 315.400 TO 315.412 IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for licensure as a third-party logistics provider shall submit a satisfactorily completed board-approved application along with the required fee. New applicants shall provide, at minimum, the following:*
 - (a) *The applicant's full name, all trade or business names used, full business address, and telephone number;*
 - (b) *Type of ownership, whether individual, partnership, limited liability company, or corporation;*
 - (c) *Name of the owner or owners, including:*
 - 1. *If a person, the name, address, Social Security number, and date of birth;*
 - 2. *If other than a person, the name, address, Social Security number, and date of birth of each partner, limited liability company member, or corporate officer and corporate director, and the federal employer identification number;*
 - 3. *If a corporation, the state of incorporation; and*
 - 4. *If a publicly traded corporation, the information described in subparagraph 2. of this paragraph is not required for corporate officers and corporate directors; and*
 - (d) *Upon the board's written request, a list of all manufacturers, wholesale distributors, and dispensers for whom the third-party logistics provider provides services.*
- (2) *The board may use a board-approved outside agency, if permitted by federal law, to inspect third-party logistics providers.*

➔SECTION 7. A NEW SECTION OF KRS 315.400 TO 315.412 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall consider, at a minimum, the following factors in determining the eligibility for initial licensure and renewal of third-party logistics providers:*
 - (a) *A finding by a law enforcement agency or regulatory agency that the applicant or any owners of an applicant has violated federal, state, or local laws;*
 - (b) *Suspension, revocation, or any other sanction against a license currently or previously held by the applicant or any of its owners for a violation of federal or state law;*
 - (c) *A finding that the applicant or any of its owners are guilty of or pleaded guilty or nolo contendere to violating federal, state, or local laws;*
 - (d) *The furnishing by the applicant of false or fraudulent material in any application;*
 - (e) *Failure to maintain or make available to the board or to federal, state, or local law enforcement officials the records required to be maintained by third-party logistics providers; and*

- (f) *Any other factors or qualifications that the board considers relevant to and consistent with the public health and safety. Any factors inconsistent with federal standards shall not be applied.*
- (2) *A licensee who has no record of providing third-party logistics services involving prescription drugs during a routine inspection may have its subsequent renewal application referred to the board for review and possible discipline, and the board may require the licensee to appear before the board at the review.*
- (3) *A third-party logistics provider shall have and follow a diversion detection and loss prevention plan that includes all prescription drugs, which shall be immediately available to the board or its agents upon request.*
- (4) *The board shall have the right to deny licensure if it determines that granting the license would not be consistent with public health and safety.*

➔SECTION 8. A NEW SECTION OF KRS 315.400 TO 315.412 IS CREATED TO READ AS FOLLOWS:

- (1) *Third-party logistics providers shall establish and maintain for board inspection a list of each partner, limited liability company member, and corporate officer and director, including a description of the duties and the qualifications of each.*
- (2) *A third-party logistics provider shall not have as an owner or designated representative anyone convicted of a felony for conduct relating to:*
 - (a) *Providing third-party logistics services involving prescription drugs;*
 - (b) *A violation of 21 U.S.C. sec. 331(i) or (k); or*
 - (c) *A violation of 18 U.S.C. sec. 1365 relating to product tampering.*
- (3) *A third-party logistics provider shall not have, as an owner or designated representative, anyone who has violated federal or state requirements for third-party logistics provider licensure and presented a threat of serious adverse health consequences or death to humans.*

➔SECTION 9. A NEW SECTION OF KRS 315.400 TO 315.412 IS CREATED TO READ AS FOLLOWS:

- (1) *A third-party logistics provider shall operate in compliance with all applicable federal, state, and local laws and regulations, including but not limited to:*
 - (a) *The Drug Supply Chain Security Act of 2013 and rules promulgated thereunder; and*
 - (b) *The storage practices set out in 21 U.S.C. sec. 360eee-3(d)(2)(C)*
- (2) *A third-party logistics provider shall allow the board and authorized federal, state, and local law enforcement officials to enter and inspect its premises and delivery vehicles, to audit its records and written operating procedures, and to confiscate prescription drugs and records to the extent authorized by law, rule, or regulation.*
- (3) *Failure to operate in compliance with all applicable federal, state, and local laws and regulations shall constitute unprofessional conduct pursuant to KRS 315.121(1)(a).*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *A medical gas wholesaler, whether located within the Commonwealth or operating within the Commonwealth from a location outside the Commonwealth, shall be licensed by the board. Each license application shall be a fee which shall:*
 - (a) *Be prescribed by administrative regulation promulgated by the board in an amount not to exceed two hundred fifty dollars (\$250); and*
 - (b) *Not be increased by more than twenty-five dollars (\$25) per year.*
- (2) *A medical gas wholesaler shall be required to maintain accurate records of all drugs handled. Records shall be made available to agents of the board for inspection upon request.*
- (3) *Failure to report to the board or willful submission of inaccurate information shall be grounds for disciplinary action under KRS 315.121.*
- (4) *The board shall promulgate administrative regulations to specify the criteria for licensure and discipline of a medical gas wholesaler.*

➔Section 11. KRS 315.205 is amended to read as follows:

Upon the request of an individual or his or her parent or guardian, a pharmacist who administers an immunization to an individual who is fourteen (14) to seventeen (17) years of age or an influenza vaccine to an individual who is nine (9) to thirteen (13) years of age, as authorized in KRS 315.010(22)~~((24))~~, shall provide notification of the immunization to the individual's primary care provider.

➔Section 12. KRS 194A.450 is repealed and reenacted as a new section of KRS Chapter 315 to read as follows:

For the purposes of *Sections 12 to 17 of this Act*~~[KRS 194A.450 to 194A.458]~~:

- (1) "Controlled substance" has the same meaning as in KRS 218A.010;
- (2) "Dispense" has the same meaning as in KRS 217.015;
- (3) "Health care provider" has the same meaning as in KRS 304.17A-005;
- (4) "Health facility" has the same meaning as in KRS 216B.015;
- (5) "Legend drug" has the same meaning as in KRS 217.015;
- (6) "Pharmacist" has the same meaning as in KRS 315.010; and
- (7) "Prescription drug" has the same meaning as in KRS 315.010.

➔Section 13. KRS 194A.452 is repealed and reenacted as a new section of KRS Chapter 315 to read as follows:

- (1) The ~~*board*~~~~[Cabinet for Health and Family Services]~~ shall establish and maintain a legend drug repository program to support the donation of a legend drug or supplies needed to administer a legend drug for use by an individual who meets the eligibility criteria specified by an administrative regulation promulgated by the ~~*board*~~~~[cabinet]~~. The repository program shall not accept any controlled substance.
- (2) Donations may be made on the premises of a health facility or pharmacy that elects to participate in the program and meets requirements specified by the ~~*board*~~~~[cabinet]~~ by an administrative regulation promulgated by the ~~*board*~~~~[cabinet]~~.
- (3) The health facility may charge a handling fee to an individual who received a legend drug or supplies under the program established under this section, except that the fee shall not exceed the amount established by an administrative regulation promulgated by the ~~*board*~~~~[cabinet]~~.
- (4) A health facility or pharmacy that receives a donated legend drug under this section may distribute the legend drug or supplies to another eligible health facility or pharmacy for use under the program created under this section.
- (5) Nothing in this section or *Section 14 of this Act*~~[KRS 194A.454]~~ shall require a health facility, pharmacy, pharmacist, or practitioner to participate in the program established in this section.

➔Section 14. KRS 194A.454 is repealed and reenacted as a new section of KRS Chapter 315 to read as follows:

- (1) A legend drug or supplies used to administer a legend drug may be accepted and dispensed under the program established in *Section 13 of this Act*~~[KRS 194A.452]~~ only if the following requirements are met:
 - (a) The legend drug or supplies needed to administer the legend drug is in its original, unopened, sealed, and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;
 - (b) The legend drug is not classified as a controlled substance;
 - (c) The legend drug or supplies needed to administer a legend drug is not adulterated or misbranded, as determined by a pharmacist employed by, or under contract with, the health facility or pharmacy, who shall inspect the drug or supplies needed to administer a legend drug before the drug or supplies are dispensed; and
 - (d) The legend drug or supplies needed to administer a legend drug are prescribed by a physician, advanced practice registered nurse, or physician assistant and dispensed by a pharmacist.
- (2) No legend drug or supplies needed to administer a legend drug that are donated for use under this section may be resold.

➔Section 15. KRS 194A.456 is repealed and reenacted as a new section of KRS Chapter 315 to read as follows:

- (1) Unless the manufacturer of a legend drug or supply needed to administer a legend drug exercises bad faith or fails to exercise ordinary care, the manufacturer of a legend drug or supply shall not be subject to criminal or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of the drug or supply under the legend drug repository created under **Section 13 of this Act**~~[KRS 194A.452]~~, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.
- (2) Health facilities, pharmacies, and health care providers shall be immune from civil liability for injury to or the death of an individual to whom a legend drug or supply is dispensed and shall not be subject to disciplinary action for unprofessional conduct for their acts or omissions related to donating, accepting, distributing, or dispensing a legend drug or supply under **Sections 12 to 17 of this Act**~~[KRS 194A.450 to 194A.458]~~, unless the act or omission involves reckless, wanton, or intentional misconduct or the act or omission results from failure to exercise ordinary care.

➔Section 16. KRS 194A.458 is repealed and reenacted as a new section of KRS Chapter 315 to read as follows:

The ~~board~~~~[Cabinet for Health and Family Services]~~ shall promulgate administrative regulations to establish:

- (1) The requirements for health facilities and pharmacies to accept and dispense donated legend drugs or supplies needed to administer legend drugs under **Sections 13 and 14 of this Act**~~[KRS 194A.452 and 194A.454]~~, including all of the following:
 - (a) Eligibility criteria for health facilities;
 - (b) Standards and procedures for accepting, safely storing, and dispensing donated legend drugs or supplies needed to administer legend drugs;
 - (c) Standards and procedures for inspecting donated legend drugs or supplies needed to administer legend drugs to determine if these are in their original, unopened, sealed, and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened; and
 - (d) Standards and procedures for inspecting donated legend drugs or supplies needed to administer legend drugs to determine that these are not adulterated or misbranded;
- (2) Eligibility criteria for individuals to receive donated legend drugs or supplies needed to administer legend drugs dispensed under **Sections 13 and 14 of this Act**~~[KRS 194A.452 and 194A.454]~~;
- (3) Standards for prioritizing the dispensation to individuals who are uninsured or indigent, or to others if an uninsured or indigent individual is unavailable;
- (4) A means by which an individual who is eligible to receive a donated legend drug or supplies needed to administer a legend drug may indicate that eligibility;
- (5) Necessary forms for administration of the legend drug repository program;
- (6) The maximum handling fee that a health facility may charge for accepting, distributing, or dispensing donated legend drugs or supplies needed to administer legend drugs;
- (7) A list of legend drugs and supplies needed to administer legend drugs that the legend drug repository program may accept for dispensing; and
- (8) A list of legend drugs and supplies needed to administer legend drugs that the legend drug repository program shall not accept for dispensing, including the reason why the legend drug or supply is ineligible for donation.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

Drugs that shall only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements shall not be accepted or distributed under the provisions of the program.

Signed by Governor March 27, 2017.

CHAPTER 137

(HB 350)

AN ACT relating to the veteran designation on license plates.

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

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

- (1) Each initial and renewal application by a person who meets the criteria of paragraph (a) of this section and each initial application by a person who meets the criteria of ~~paragraph (b), (c), and (d)~~ **paragraph (b), (c), or (d)** of this section for a special military license plate shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
 - (a) An active component member;
 - (b) A retired member;~~or~~
 - (c) *A member of the National Guard or Reserve component who has completed his or her term of service, or has retired with a minimum of twenty (20) years of service; or*
 - (d) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
 1. Performed ***one hundred eighty (180) days***~~twenty-four (24) months~~ of active-duty service;
 2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
 3. Received a hardship discharge;
 4. Was separated or retired due to a disability; or
 5. Was determined to have a service-connected disability incurred during the enlistment.
- (2) The member, retired member, veteran, or reservist may purchase an unlimited number of special military-related license plates described in subsection (1) of this section, annually for vehicles they own or lease. A disabled veterans license plate shall expire on July 31.
- (3) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.
- (4) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate by submitting written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with KRS 186.164(7).
- (5) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate and shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

- (a) Was a member of the United States Armed Forces on December 7, 1941;
 - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
 - (c) Was discharged honorably from the United States Armed Forces; and
 - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.
- (6) A person who is eligible to receive a Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plate under KRS 186.164(15)(a) may receive up to two (2) Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plates free of charge and may purchase additional license plates by paying the same fee as for special military-related plates issued under KRS 186.162(2)(d) annually for vehicles he or she owns or leases.
 - (7) The surviving spouse of a Purple Heart recipient, or a Kentucky National Guard member or a retired member, who possessed a vehicle licensed with the Purple Heart recipient special license plate or the Kentucky National Guard special license plate, may retain the license plate for use on the same vehicle or another vehicle that complies with KRS 186.164(7). The surviving spouse may renew the license plate indefinitely, provided the appropriate registration fee is paid annually.
 - (8) A person who is attending or who is a graduate of the United States Air Force Academy, the United States Military Academy, the United States Naval Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy shall be eligible for a special military service academy license plate. A special military service academy license plate under this subsection shall use the same plate template as the standard special military license plate under subsection (1) of this section, with stickers to identify the various service academies. The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the proof required to demonstrate current attendance at or graduation from a service academy. An eligible applicant may receive up to two (2) special military service academy license plates.

Signed by Governor March 27, 2017.

CHAPTER 138

(HB 314)

AN ACT relating to monitoring and evaluation programs in the Cabinet for Health and Family Services.

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

➔Section 1. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish ***and maintain*** an electronic system for monitoring Schedules II, III, IV, and V controlled substances ~~that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy~~. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.
- (2) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every ***practitioner or pharmacy which dispenses***~~dispenser within the Commonwealth who is licensed, permitted, or otherwise authorized to prescribe or dispense~~ a controlled substance to a person ***in Kentucky, or to a person at an address*** in Kentucky, shall report to the Cabinet for Health and Family Services the data required by this section, ***which includes the reporting of any Schedule II controlled substance dispensed at a facility licensed by the cabinet and a Schedule II through Schedule V controlled substance regardless of dosage when dispensed by the emergency department of a hospital to an emergency department patient.***~~[except that reporting]~~**Reporting** shall not be required for:

- (a) A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;
 - (b) *A Schedule III through Schedule V controlled substance dispensed by a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours and is not dispensed by the emergency department of a hospital; or*
~~— A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, dispensed by a practitioner at a facility licensed by the cabinet, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours; or~~
 - (c) A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections, where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.
- (4) *In addition to the data required by subsection (5) of this section, a Kentucky-licensed acute care hospital or critical access hospital shall report to the cabinet all positive toxicology screens that were performed by the hospital's emergency department to evaluate the patient's suspected drug overdose.*
- (5) Data for each controlled substance that is ~~reported~~~~dispensed~~ shall include but not be limited to the following:
- (a) Patient identifier;
 - (b) National drug code of the drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- ~~(6)~~~~(5)~~ The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- ~~(7)~~~~(6)~~ The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:
- (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, *federal prosecutors*, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal ~~agent~~~~peace officer~~ whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program in conformity with subsection ~~(8)~~~~(7)~~ of this section;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

- (e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who ~~requests information and~~ certifies that the requested information is for the purpose of:
 1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; ~~or~~
 2. ***Reviewing data on controlled substances that have been reported for the birth mother of an infant who is currently being treated by the practitioner for neonatal abstinence syndrome, or has symptoms that suggest prenatal drug exposure; or***
 3. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
- (f) The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;
- (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
- (h) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
 2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
- (i) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or
- (j) A medical examiner engaged in a death investigation pursuant to KRS 72.026.
- ~~(8)(7)~~ The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:
 - (a) Appropriately managed by a single outpatient pharmacy or primary care physician; or
 - (b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.

- ~~(9)(8)~~ A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:
- (a) A person specified in subsection ~~(7)(6)~~(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection ~~(7)(6)~~(b) of this section authorized to receive data or a report if the persons specified in subsection ~~(7)(6)~~(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection ~~(7)(6)~~(a) of this section, or with a law enforcement officer designated in subsection ~~(7)(6)~~(b) of this section;
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;
 - (d) If a state licensing board as defined in KRS 218A.205 initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and
 - (e) A practitioner, pharmacist, or employee who obtains data under subsection ~~(7)(6)~~(e) of this section may share the report with the patient or person authorized to act on the patient's behalf. **Any practitioner, pharmacist, or employee who obtains data under subsection (7)(e) of this section may** ~~and~~ place the report in the patient's medical record, **in which case the** ~~with that~~ individual report **shall** ~~then be being~~ deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.
- ~~(10)(9)~~ The Cabinet for Health and Family Services, all peace officers specified in subsection ~~(7)(6)~~(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- ~~(11)(10)~~ The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- ~~(12)(11)~~ Intentional failure **to comply with the reporting requirements of this section** ~~by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section~~ shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- ~~(13)(12)~~ Intentional disclosure of transmitted data to a person not authorized by ~~subsections~~ ~~subsection~~ ~~(7)(6)~~ to ~~subsection~~ ~~(9)(8)~~ of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide **current or prospective patient or a bona fide** specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- ~~(14)(13)~~ (a) ~~The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real time electronic monitoring system for Schedules II, III, IV, and V controlled substances.~~
- ~~(b)~~ ~~The pilot project shall:~~
- ~~1. Be conducted in two (2) rural counties that have an interactive real time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and~~
 - ~~2. Study the use of an interactive system that includes a relational data base with query capability.~~

- ~~(c) Funding to create or maintain a real time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.~~
- ~~(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.~~
- ~~(15)}~~ The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- ~~(15)}~~~~(16)}~~ (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.
- ~~(16)}~~~~(17)}~~ If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.
- ~~(17)}~~~~(18)}~~ The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:
- (a) An error resolution process allowing a patient to whom a report had been disclosed under subsection ~~(9)}~~~~(8)}~~ of this section to request the correction of inaccurate information contained in the system relating to that patient; and
- (b) ~~{Beginning July 1, 2013, }~~A requirement that data be reported to the system under subsection (3) of this section within one (1) day of dispensing.

➔Section 2. KRS 218A.240 is amended to read as follows:

- (1) All police officers and deputy sheriffs directly employed full-time by state, county, city, urban-county, or consolidated local governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.
- (2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths; to enter upon premises at all times for the purpose of making inspections; to seize evidence; to interrogate all persons; to require the production of prescriptions, of books, papers, documents, or other evidence; to employ special investigators; and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202~~{(7)}~~ in any administrative proceeding before the cabinet.
- (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health and Family Services.
- (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.

- (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.
- (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.
 - (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.
 - (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.
 - (d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.420, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.
- (6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.
- (7) (a) The Cabinet for Health and Family Services shall proactively use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a state licensing board listed in KRS 218A.205 if a report or analysis conducted under this subsection indicates that further investigation about improper, inappropriate or illegal prescribing or dispensing may be necessary by the board. The board shall consider each report and may, after giving due consideration to areas of practice, specialties, board certifications, and appropriate standards of care, request and receive a follow-up report or analysis containing relevant information as to the prescriber or dispenser and his or her patients.
- (b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure, the Board of Nursing, the Office of Drug Control Policy, and the Board of Pharmacy, to be used to generate public trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850. The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system. Except as provided in subsection (8) of this section, these trend reports shall not identify an individual prescriber, dispenser, or patient. Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to this paragraph except that the report shall not identify an individual prescriber, dispenser, or patient.
- (8) If the cabinet deems it to be necessary and appropriate, upon the request of a state licensing board listed in KRS 218A.205, the cabinet shall provide the requesting board with the identity of prescribers, dispensers, and patients used to compile a specific trend report.
- (9) Any hospital or other health care facility may petition the cabinet to review data from the electronic system specified in KRS 218A.202 as it relates to employees of that facility to determine if inappropriate prescribing or dispensing practices are occurring. The cabinet may initiate any investigation in such cases as he or she determines is appropriate, and may request the assistance from the hospitals or health care facilities in the investigation.

➔SECTION 3. A NEW SECTION OF KRS 205.520 TO 205.630 IS CREATED TO READ AS FOLLOWS:

If the Department for Medicaid Services considers the fair market value of an applicant's property for purposes of determining eligibility, "fair market value" means:

- (1) *An estimate of the value of an asset if sold at the prevailing price at the time it was actually transferred, based on:*
- (a) *The most recent certified assessed value of the property as listed by the local property valuation administrator; or*

- (b) *The professional opinion of an independent, licensed appraiser; or*
- (2) *The price brought on the property at a public auction conducted by a licensed auctioneer.*

Signed by Governor March 27, 2017.

CHAPTER 139

(HB 294)

AN ACT relating to the disclosure of damages by motor vehicle dealers.

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

➔Section 1. KRS 186A.540 is amended to read as follows:

- (1) An individual, or a dealer required to be licensed pursuant to KRS Chapter 190, shall disclose all damages to a motor vehicle:
 - (a) Of which the individual or the dealer has direct knowledge;
 - (b) Which result in repairs, **for items other than wheels, tires, or glass,** ~~for repair estimates~~ that exceed **two thousand**~~one thousand~~ dollars **(\$2,000)**~~(\$1,000)~~; and
 - (c) That occur while the motor vehicle is in the individual's or the dealer's possession and prior to delivery to a purchaser.
- (2) Disclosure under this section shall be in writing and shall require the purchaser's signature acknowledging the disclosure of damages.

➔Section 2. KRS 190.0491 is amended to read as follows:

- (1) "Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:
 - (a) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery, and
 - (b) The giving of notice of the tender of the motor vehicle and documents to the dealer.
- (2) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:
 - (a) Notify the manufacturer or distributor of the damage within three (3) working days of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and
 - (b) Request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

Notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States Postal Service.

- (3) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of the damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for the damage to the motor vehicle. In determining when the notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States Postal Service indicated on the notice of delivery returned to the dealer shall be controlling.
- (4) In computing the lapse of three (3) working days under this section, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in

subsection (3) of this section, shall not be included, but the last working day of the period so computed shall be included.

- (5) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in subsection (2) of this section, excluding damage to glass, tires, and bumpers when replaced by identical manufacturer's original equipment and any damage not exceeding six percent (6%) of the sticker price of the vehicle, the occurrence and extent of the damage must be disclosed by the dealer to the consumer, and upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer and/or dealer, must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards; if the dealer makes the certification he shall be indemnified by the manufacturer. Upon this certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.
- (6) Whenever a motor vehicle is damaged resulting in repairs, *for items other than wheels, tires, or glass*, ~~for repair estimates that exceed two thousand [one thousand] dollars (\$2,000) [(\$1,000)]~~ after delivery to the dealer by the manufacturer or distributor, as defined in subsection (1) of this section, but before sale by the dealer to the consumer, the occurrence and extent of the damage must be disclosed by the dealer to the consumer prior to a sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards. Upon this certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.
- (7) Notwithstanding the terms of any franchise agreement, it shall be a violation of this section for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement agreed to in writing by the manufacturer for damages, including, but not limited to, court costs and reasonable attorneys' fees of the new motor vehicle dealer, arising out of complaints, claims, or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or rescission of the sale as is defined in KRS 355.2-608, to the extent that the judgment or settlement agreed to in writing by the manufacturer relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer, beyond the control of the dealer.

Signed by Governor March 27, 2017.

CHAPTER 140

(HB 274)

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

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

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

Abshire & Abshire Attorneys, PLLC

3344 Nantucket Drive

Lexington, KY 40502

\$13,500.00

Alan Hyman Enterprises, Inc.

9 Eastover Court

Louisville, KY 40206

\$10,043.06

| | |
|---------------------------------------|-------------|
| Allison-Collins Glass | |
| 745 East Main Street | |
| Frankfort, KY 40601 | \$2,059.24 |
| Vickie Masden Arrowood | |
| The Republic Building, Suite 1000 | |
| 429 West Muhammed Ali Boulevard | |
| Louisville, KY 40201 | \$1,500.00 |
| Attorney Services of Kentucky | |
| 203 East Mount Vernon Street, Suite B | |
| Somerset, KY 42501 | \$500.00 |
| Baptist Health Medical Group | |
| P.O. Box 950243 | |
| Louisville, KY 40295 | \$231.00 |
| Cessna Bengé | |
| 203 South Main Street | |
| London, KY 40741 | \$500.00 |
| Mark L. Bernstein, DDS | |
| 1812 Valley Vista Drive | |
| Borden, IN 47106 | \$9,573.84 |
| Donna Bloemer | |
| P.O. Box 1307 | |
| Covington, KY 41012 | \$570.00 |
| Bonecutter Firm | |
| 530 York Street | |
| Newport, KY 41071 | \$450.00 |
| Tony Boyd | |
| P.O. Box 55109 | |
| Lexington, KY 40555 | \$13,000.00 |
| Mark Brengelman | |
| 306 West Main Street, Suite 503 | |
| Frankfort, KY 40601 | \$500.00 |
| Buchanan Contracting | |
| 128 Silver Maple Lane | |
| Stanton, KY 40380 | \$18,749.00 |
| Andrew Campbell | |
| 27 East 4th Street | |
| P.O. Box 44 | |
| Covington, KY 41012 | \$1,250.00 |
| Chenoweth Law Office | |

| | |
|--------------------------------------------------------------------------------------------|--------------|
| 114 South Main Street Lawrenceburg, KY 40342 Chenoweth Law Office | \$3,880.72 |
| 114 South Main Street Lawrenceburg, KY 40342 Chevalier Law | \$2,884.19 |
| P.O. Box 66 Walton, KY 41094 Commonwealth X-Ray, Inc. | \$20.00 |
| P.O. Box 0825 Nicholasville, KY 40340 Bryan N. Coomer | \$13,740.00 |
| 605 Republic Building 429 West Muhammed Ali Boulevard Louisville, KY 40202 | \$5,150.00 |
| Rhonda M. Copley P.O. Box 477 Ashland, KY 41105 | \$500.00 |
| Robert Julius Craig 7125 New Campbellsville Road Campbellsville, KY 42718 | \$750.00 |
| Creation Gardens 2055 Nelson Miller Parkway Louisville, KY 40223 | \$3,423.50 |
| Patricia Ann Day 23 West Center Street Madisonville, KY 42431 | \$150.00 |
| Amanda Rogers Deaton 212 East Stephen Foster Avenue Bardstown, KY 40004 | \$250.00 |
| Elliott Law Office – Jennifer Elliott 107 South Arnold Avenue Prestonsburg, KY 41653 | \$500.00 |
| Embry, Merritt, Shaffar, Womack, PLLC 62 Public Square Leitchfield, KY 42754 | \$250.00 |
| Empire Contractors, Inc. P.O. Box 6327 Evansville, IN 47719 | \$158,056.00 |

| | |
|---------------------------------------|-------------|
| Jerome Fish | |
| P.O. Box 1850 | |
| Mount Vernon, KY 40456 | \$500.00 |
| Flynt Law Office | |
| P.O. Box 359 | |
| Stanton, KY 40380 | \$1,000.00 |
| Audelia J. Francis – Francis Law Firm | |
| 4241 Skyline Drive | |
| Ashland, KY 41102 | \$625.00 |
| Gateway Press | |
| 4500 Robards Lane | |
| Louisville, KY 40218 | \$300.00 |
| Gillum and Gillum | |
| P.O. Box 1147 | |
| Somerset, KY 42502 | \$950.00 |
| GLA Collection Company, Inc. | |
| P.O. Box 7728 | |
| Louisville, KY 40257-0728 | \$200.00 |
| Goff & Goff | |
| 53 Public Square | |
| Leitchfield, KY 42754 | \$500.00 |
| Graham Law | |
| 306 North Mulberry Street | |
| Elizabethtown, KY 42701 | \$500.00 |
| Arlene Gray | |
| 114 North Fifth Street, Suite 17 | |
| Bardstown, KY 40004 | \$250.00 |
| Martin A. Haas, Jr. | |
| 27 East Fourth Street | |
| Covington, KY 41011 | \$45,530.00 |
| Paul Blaine Hamilton | |
| 119 West Stephen Foster Avenue | |
| Bardstown, KY 40004 | \$250.00 |
| Hanson Aggregates Midwest LLC | |
| 607 Quarry Road | |
| Upton, KY 42784 | \$12,884.18 |
| Hardin Law Office | |
| P.O. Box 129 | |
| Hardinsburg, KY 40143 | \$1,500.00 |

| | |
|-----------------------------------------------------------------------------------------------------|-------------|
| Benjamin W. Hawes, Jr. Room 202, Masonic Building 227 Saint Ann Street Owensboro, KY 42303 | \$1,475.00 |
| Malenda S. Haynes 201 North Court Street Grayson, KY 41143 | \$500.00 |
| John C. Helmuth 155 East Main Street, Suite 101 Lexington, KY 40507 | \$125.00 |
| Hendricks Law Offices, PLLC 2225 Frederica Street Owensboro, KY 42301 | \$250.00 |
| Jeffrey Herrington P.O. Box 1746 Lexington, KY 40588 | \$500.00 |
| James B. Hornal P.O. Box 1619 Bowling Green, KY 42102 | \$3,500.00 |
| Robert J.W. Howell 27 East Fourth Street Covington, KY 41011 | \$1,000.00 |
| G. Edward James P.O. Box 373 Carrollton, KY 41008 | \$313.00 |
| Jeff Robards Construction 4320 North Preston Highway Shepherdsville, KY 40165 | \$3,396.43 |
| JFA Associates 5 Walter Houp Court, NE Washington, DC 20002 | \$15,000.00 |
| Matthew Johnson P.O. Box 1061 Elizabethtown, KY 42702 | \$4,000.00 |
| Kentucky Transportation Center 176 Oliver Raymond Building Lexington, KY 40506 | \$13,965.10 |
| Kindra Kilgore 5104 Oliver Road | |

| | |
|-----------------------------------------------------|--------------|
| Independence, KY 41051 | \$1,417.65 |
| KIZAN Technologies LLC | |
| 1831 Williamson Court, Suite K | |
| Louisville, KY 40223 | \$40,167.50 |
| Lamour Law Offices | |
| 102 East Main Street, Suite 7 | |
| Georgetown, KY 40324 | \$1,375.00 |
| Stephen B. Lee | |
| P.O. Box 308 | |
| Owensboro, KY 42302-0308 | \$250.00 |
| Lexington Trots Breeders Association (The Red Mile) | |
| 1200 Red Mile Road | |
| Lexington, KY 40504 | \$4,774.00 |
| Louisville Jefferson County Metro Government | |
| 611 West Jefferson Street | |
| Louisville, KY 40202 | \$757,341.00 |
| Andy Markelonis | |
| P.O. Box 464 | |
| Catlettsburg, KY 41129 | \$250.00 |
| Charles C. Mattingly III | |
| P.O. Box 72 | |
| Hardinsburg, KY 40143 | \$500.00 |
| Stephen C. Megerle | |
| 421 Madison Avenue | |
| Covington, KY 41011 | \$60.00 |
| Alicson R. Montgomery | |
| P.O. Box 1195 | |
| Scottsville, KY 42164 | \$500.00 |
| R. Matthew Moore | |
| 27 East Fourth Street | |
| Covington, KY 41011 | \$20,491.67 |
| David W. Mossbrook | |
| 303 Wilson Downing Road | |
| Lexington, KY 40517 | \$5,000.00 |
| Neopost USA Inc. | |
| 25880 Network Place | |
| Chicago, IL 60673-1258 | \$248.01 |
| J. Adam Newton | |
| PMB 216 | |

| | |
|---------------------------------------|-------------|
| 378 Diederich Boulevard | |
| Ashland, KY 41101 | \$1,000.00 |
| Nuance Communications, Inc. | |
| P.O. Box 2561 | |
| Carol Stream, IL 60132-2561 | \$9,861.55 |
| OnLine FM | |
| P.O. Box 381467 | |
| Germantown, TN 38183-1467 | \$6,387.50 |
| Otis and Johnson | |
| 115 Park Place | |
| Covington, KY 41011 | \$400.00 |
| Gwen Pollard | |
| 197 Ridgeway Avenue | |
| Falmouth, KY 41040 | \$750.00 |
| Irene Rachlinski | |
| 6170 First Financial Drive, Suite 303 | |
| Burlington, KY 41005 | \$187.50 |
| Natalie Ralph | |
| P.O. Box 22223 | |
| Owensboro, KY 42304 | \$1,500.00 |
| RFH, PLLC | |
| 300 West Vine Street, Suite 800 | |
| Lexington, KY 40507-1812 | \$8,871.48 |
| Dianna Riddick | |
| 4689 Egners Ferry Road | |
| Benton, KY 42025 | \$500.00 |
| Melanie Rolley | |
| P.O. Box 765 | |
| Madisonville, KY 42431 | \$419.00 |
| Russell and Ireland | |
| 726 Greenup Street | |
| Covington, KY 41011 | \$280.00 |
| Saint Elizabeth Medical Center | |
| 1 Medical Village Drive | |
| Edgewood, KY 41017 | \$30,697.20 |
| Amy Revlett Stewart | |
| 107 South Main Street | |
| Greenville, KY 42345 | \$2,500.00 |
| Robert P. Stith | |

| | |
|------------------------------------------------------|--------------|
| 149 North Limestone Street | |
| Lexington, KY 40507 | \$1,000.00 |
| Strong Tower Construction, LLC | |
| dba Koch Corporation | |
| 1131 Logan Street | |
| Louisville, KY 40204 | \$46,430.00 |
| Daniel C. Thomas | |
| 153 North Fourth Street | |
| Wickliffe, KY 42087 | \$750.00 |
| Threlkeld & Threlkeld | |
| P.O. Box 277 | |
| Williamstown, KY 41097 | \$250.00 |
| TIOGA HVAC Rentals | |
| 1000 Valley Belt Road | |
| Brooklyn Heights, Ohio 44131 | \$24,100.00 |
| Susan Shimp Torok | |
| 1800 Strand Avenue | |
| Louisville, KY 40205 | \$150.00 |
| University of Kentucky | |
| Attn: Lissa Pohl | |
| 710 Garrigus Building | |
| Lexington, KY 40546-0215 | \$1,587.00 |
| UK Department of Pathology and Laboratory | |
| Kentucky Medical Services Foundation, Inc. | |
| 800 Rose Street | |
| Lexington, KY 40536-0298 | \$32,370.51 |
| University of Louisville | |
| 323 East Chestnut Street | |
| Louisville, KY 40202 | \$168,810.00 |
| University of Louisville Pediatric Forensic Medicine | |
| 234 East Gray Street, Suite 334 | |
| Louisville, KY 40202 | \$5,137.50 |
| Wallace Boggs, PLLC | |
| 300 Buttermilk Pike, Suite 100 | |
| Fort Mitchell, KY 41017 | \$160.00 |
| Webb Law Office - Jimmy C. Webb | |
| 187 East Court Street | |
| Prestonsburg, KY 41653 | \$1,850.00 |
| Whitfield, Bryson and Mason | |

| | |
|------------------------------|-------------|
| 19 North Main Street | |
| Madisonville, KY 42431 | \$500.00 |
| Willenborg Law Offices, PLLC | |
| 130 Park Place | |
| Covington, KY 41011 | \$3,184.00 |
| Woodford Feed Company | |
| P.O. Box 116 | |
| Versailles, KY 40383 | \$11,314.00 |

(2) No persons listed in this section who submitted a legislative claim request for payment of guardian ad litem fees shall be entitled to payment for guardian ad litem fees for cases with a disposition date before March 1, 2012, even if this means that they receive less than the amount of funds appropriated in this section.

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

| | Amount |
|-----------------------------------------|----------|
| Check #T1 14342452 dated March 9, 2011 | |
| Adams, Gary G | |
| 668 Maynard Fork | |
| Pikeville, KY 41501 | \$40.00 |
| Check #T1 1710464 dated April 15, 2003 | |
| Ambrus, Gabor R and Judith | |
| 2524 Alanmede Road | |
| Louisville, KY 40205 | \$580.00 |
| Check #T1 14418849 dated March 28, 2011 | |
| Batten, Seth | |
| 350 East Short Street | |
| Unit 215 | |
| Lexington, KY 40507 | \$94.00 |
| Check #P 9,861,908 dated May 20, 1976 | |
| Beatty, Ernestine | |
| C/O Veronica Beatty | |
| PO Box 226002 | |
| Dallas, TX 75222 | \$220.83 |
| Check #T1 13192479 dated April 15, 2009 | |
| Berry, Joyce K | |
| 303 Johnson Road | |
| Louisville, KY 40245 | \$453.00 |
| Check #E1 11422258 dated May 4, 2011 | |
| Bowles, S B and Raines, L B | |
| 5407 Sundowner Court | |

| | |
|---------------------------------------------|------------|
| Houston, TX 77041 | \$660.00 |
| Check #T1 14584938 dated May 6, 2011 | |
| Bowles, S B and Raines, L B | |
| 5407 Sundowner Court | |
| Houston, TX 77041 | \$100.00 |
| Check #B1 11019415 dated September 28, 2007 | |
| Bud Equipment, Inc | |
| C/O Teresa Parton | |
| PO Box 159 | |
| Middlesboro, KY 40965 | \$2,360.67 |
| Check #E1 2062967 dated May 25, 2004 | |
| Burks, Doris P | |
| 1010 Burning Springs Circle | |
| Louisville, KY 40223 | \$751.58 |
| Check #T1 2851344 dated July 8, 2004 | |
| Burks, Doris P | |
| 1010 Burning Springs Circle | |
| Louisville, KY 40223 | \$160.00 |
| Check #G1 3007938 dated April 30, 1997 | |
| Cain, Noye | |
| 505 Hendricks Street | |
| Leitchfield, KY 42754 | \$2,289.54 |
| Check #TR 0767530 dated October 29, 1997 | |
| Cain, Noye | |
| 505 Hendricks Street | |
| Leitchfield, KY 42754 | \$537.62 |
| Check #G1 5425505 dated June 26, 2003 | |
| Cain, Noye | |
| 505 Hendricks Street | |
| Leitchfield, KY 42754 | \$2,783.42 |
| Check #T1 1905038 dated May 27, 2003 | |
| Dangelo, Gianna | |
| 305 Bismark Way | |
| King of Prussia, PA 19406-3204 | \$677.00 |
| Check #T1 12301226 dated March 27, 2008 | |
| Gardner, Roger B and M K | |
| 571 Franklin Road | |
| Campbellsville, KY 42718 | \$23.00 |
| Check #E1 11126367 dated January 30, 2008 | |

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Grace, Donald R P.O. Box 66 Nortonville, KY 42442 | \$315.99 |
| Check #E1 11261290 dated May 26, 2009 Hale, Jesse J. (Deceased) Hale, Joyce A. 4130 Denton Road Canton, MI 48818 | \$300.00 |
| Check #T1 14355030 dated March 14, 2011 Hall, Emmaline R. 1501 College View Drive Bowling Green, KY 42101 | \$97.00 |
| Check #T1 8004161 dated April 18, 2000 Harned, Shawn K and Michelle L 4910 West Batalina Court Louisville, KY 40219 | \$348.53 |
| Check #T1 14329901 dated March 8, 2011 Hynes, Joshua A and C D 1636 Overlook Circle Shelbyville, KY 40065 | \$432.00 |
| Check #G1 16234611 dated June 17, 2011 Kelley, Diane 731 Cherokee Drive Radcliff, KY 40160-2203 | \$77.08 |
| Check #P 7,612,630 dated December 11, 1974 Mayes, R T (Decd) C/O Emery F Mayes 687 Hill N Dale Road Lexington, KY 40503 | \$460.47 |
| Check #T1 14451846 dated April 7, 2011 Metz, Earline M Decd John S Metz, Executor 3795 Ashford Trail Atlanta, GA 30319 | \$713.00 |
| Check #B1 11026056 dated February 26, 2008 Novartis Vaccines and Diagnostics Aaron Hatten 9393 West 110th Street, Suite 430 Oakland Park, KS 66210 | \$21,383.45 |

Check # E1 2240927 dated June 29, 2006

Parks, Stephanie

385 Redding Road, #81

Lexington, KY 40517

\$77.00

Check #T1 11830990 dated July 9, 2007

Rice, Jack T and Carolyn J

160 McKnight Street

Ashland, KY 41102

\$385.00

Check # P1 11949182 dated April 15, 2009

Richter, Natalie

3900 Oakleigh Meadow Place

Louisville, KY 40245

\$318.89

Check # T1 11604437 dated April 25, 2007

Shelton, Lola L

3107 West Roberta Drive

Phoenix, AZ 85083

\$337.00

Check #T1 12098396 dated February 22, 2008

Silver, Linda J

1765 Bernheim Lande

Louisville, KY 40210

\$160.00

Check #G1 15256283 dated May 26, 2010

Smith, Christopher

C/O Lisa M Wise-Hodnett

275 East Main Street, 3W-C

Frankfort, KY 40601

\$250.00

Check # G1 15410900 dated July 28, 2010

Smith, Dillion

C/O Lisa M Wise-Hodnett

275 East Main Street, 3W-C

Frankfort, KY 40601

\$250.00

Check # T1 0988941 dated October 7, 2002

Wells, James P and A T

10611 Chertsey Place

Louisville, KY 40243-1668

\$251.00

Check # G1 9113418 dated December 7, 2005

White, John F

532 Ponder Drive

Shelbyville, KY 40065

\$101.42

Check #GA 16362345 dated August 3, 2011

YMCA Pleasant Grove Elementary Child Care

C/O Full Circle Services, Inc.

1820 South Boulder Avenue, Suite 300

Tulsa, OK 74119

\$1,260.00

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

Signed by Governor March 27, 2017.

CHAPTER 141

(HB 238)

AN ACT relating to proprietary education and declaring an emergency.

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

➔Section 1. KRS 165A.350 is amended to read as follows:

- (1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the commission a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.
- (2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the commission.
- (3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral as required by the commission but not less than five thousand dollars (\$5,000).
- (4) (a) The surety bond or other collateral shall be conditioned ***by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the proprietary school*** or to provide indemnification to any student or enrollee ***or the student's or enrollee's parent or guardian suffering***~~who shall suffer~~ loss or damage as a result of ***any*** fraud or misrepresentation ~~used to the student or enrollee~~ in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school, ***or as a result of the student being unable to complete the course or courses because the proprietary school ceased operations.*** The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond may be continuous.
- (b) Any claimant may file with the commission a duly verified claim against an agent. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the complaint giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on the bond and the surety thereon, and if not paid shall bring an action on the bond in any court of record within the State of Kentucky.
- (5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.
- (6) A surety on the bond may be released therefrom after the surety shall make a written notice thereof directed to the commission at least thirty (30) days prior to release.

- (7) The surety bond shall cover the period of the agent's permit, except when a surety shall be released in the manner provided herein.
- (8) Notwithstanding the provisions of other sections, the commission may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section, if the proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.
- (9) The commission may issue a conditional license on a monthly basis for up to a nine (9) month period of time.
- (10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the commission shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the commission.
- (11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.
- (12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

➔Section 2. KRS 165A.360 is amended to read as follows:

- (1) No person shall maintain or operate a proprietary school located and doing business within this state until said school shall have been issued a certificate of approval by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a certificate of approval or a certificate of registration by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No certificate of approval shall be issued by the commission to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school and shall report thereon to the commission, and said commission shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate of such school in accordance with the provisions of this section and after notice and public hearing as required herein.
- (2) No proprietary school shall be issued a certificate unless it shall make application, through its officers or an owner, upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars (\$20,000).
- (3)
 - (a) The surety bond or other collateral shall be conditioned ***by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the school*** or to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.
 - (b) Any claimant may file with the commission a duly verified claim against a proprietary school. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and, if such claim is found to be correct and due to the claimant and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.
- (4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the commission at least thirty (30) days prior to said release.

- (5) The surety bond shall cover the period of the certificate except when said surety shall be released in the manner as provided by this section.
- (6)
 - (a) The certificate shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the commission shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.
 - (b) The certificate shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.
- (7) The application for a certificate shall be accompanied by such supporting documents as the commission may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.
- (8) A certificate shall be valid for a period of one (1) school year. A certificate may be renewed in the same manner and under the conditions prescribed by the commission.
- (9) Certificates are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, reexecute and affirm the application for certificate of approval or certificate of registration and the information therein, governing said certificate in effect at the time of sale. The commission may establish a reasonable fee for the recording and processing of such changes.
- (10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the commission upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.
- (11)
 - (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a certificate by the commission.
 - (b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a certificate by the commission.
 - (c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a certificate by the commission, shall be voidable at the option of the student notwithstanding any subsequent issuance of a certificate to the school by the commission.
 - (d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

➔Section 3. Whereas properly conditioned surety bonds are necessary in order to provide immediate assistance to the Kentucky Commission on Proprietary Education to better carry out its duties, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2017.

CHAPTER 142

(HB 234)

AN ACT relating to coal mining.

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

➔Section 1. KRS 350.055 is amended to read as follows:

- (1) An applicant for a permit required by KRS 350.060 shall publish public notice of his filing of an application for that permit. The publication shall be made by advertisement in a newspaper of largest bona fide circulation,

according to the definition in KRS 424.110 to 424.120, in the county wherein the proposed mining site is located.

- (2) The applicant shall publish the notice of intention to mine in the newspaper identified in subsection (1) at least once a week for four (4) consecutive weeks beginning at the time of submission of an application for a surface coal mining operation permit, pursuant to regulations promulgated by the cabinet.
- (3) The public notice of the filing of an application shall be entitled "Notice of Intention to Mine" and shall be in a manner and form prescribed by the cabinet and shall include, though not be limited to, the following:
 - (a) The name and address of the applicant;
 - (b) The location, ownership, and boundaries of the proposed *permit area*~~[mining site]~~.
- (4) A copy of the newspaper advertisement of the applicant's "Notice of Intention to Mine" shall be filed with the cabinet and made a part of the complete application within a reasonable time after the last date of publication.
- (5) The cabinet shall notify various local government bodies, planning agencies, and sewage and water treatment authorities and water companies in the locality of the proposed operation notifying them of the applicant's intention to mine the land area as set forth in the notice of intention to mine, and identifying the permit application number assigned by the cabinet and where a copy of the permit application may be inspected. The secretary shall promulgate regulations specifying the manner in which the agencies may comment on the application. Any comments put forward pursuant to this section shall immediately be forwarded by the cabinet to the applicant and shall be made available to the public at the same places as the permit application is available.

➔Section 2. KRS 350.060 is amended to read as follows:

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

percent (10%) or more of any class of voting stock of the applicant, and whether the applicant or any person is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit the information to the cabinet upon request. Upon receipt of updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing the information;

- (h) A listing of any violations of this chapter, Public Law 95-87, and any law, rule, or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. The list shall indicate the final resolution of the violations; and
 - (i) Whether the area of land to be affected by the operation has been previously mined and is in compliance with current reclamation standards, and, if not, identify the needed reclamation work.
- (4) The application for a permit shall be accompanied by an official document, and an affidavit attesting to the document's authenticity, which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, an affidavit so stating.
- (5) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States Geological Survey topographic map or other map acceptable to the cabinet on which the applicant has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which the drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.
- (6) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States Geological Survey topographic map or other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:
- (a) Be prepared and certified by a professional engineer registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (8) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;
 - (b) Identify the area to correspond with the application;
 - (c) Show adjacent deep mining;
 - (d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;
 - (e) Be of a scale of 1:24,000 or larger;
 - (f) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected within three hundred (300) feet of an as-drilled oil or gas well, but as-drilled locations of oil and gas wells shall be certified only by a licensed surveyor and the well locations shall be entered in coordinates in feet units, using NAD 83, with Single Zone Projection, as those terms are defined in KRS 350.010;
 - (g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;
 - (h) Show the date on which the map was prepared, the north point, and the quadrangle name; and
 - (i) Show the drainage plan on and away from the area of land affected. The plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.
- (7) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions, and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. This determination shall not be

required until the time hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit shall not be approved until the information is available and is incorporated into the application.

- (8) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.
- (9) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation; the manner, time, and distance for backfilling; grading work; and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and administrative regulations adopted pursuant thereto.
- (10) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations of the cabinet. The coverage shall be maintained in full force and effect during the terms of the permit and any permit renewal, and until reclamation operations are completed.
- (11) A basic fee set by administrative regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed two thousand five hundred dollars (\$2,500), plus a fee set by administrative regulation but not to exceed seventy-five dollars (\$75), for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required in this section shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The applicant shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars (\$10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. In determining the amount of the bond, the cabinet shall take into consideration the character and nature of the overburden; the future suitable use of the land involved; the cost of backfilling, grading, and reclamation to be required; and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. Within thirty (30) days of a cabinet determination of a need to change a bond protocol currently in use, the cabinet shall immediately promulgate administrative regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of bonds. Bond protocols shall not be exempt from KRS 13A.100 and shall be established by promulgating administrative regulations under KRS Chapter 13A. Failure to include the formula for establishing the amount of the bond in any administrative regulation on bonding requirements shall be deemed a failure to comply with the prescriptions of this section and the administrative regulation shall automatically be declared deficient in accordance with KRS Chapter 13A.
- (12) The cabinet shall promulgate administrative regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations~~}; provided, that the cabinet shall require that all the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (11) of this section, KRS 350.070, or KRS 350.151.~~
- (13) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. An applicant for renewal of a permit shall pay a basic fee set by regulation, not to exceed seven hundred fifty dollars (\$750). The holders of the permit may apply for renewal and the renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to the fulfillment of the public notice requirements of this chapter, unless it is established and written findings by the cabinet are made that:
 - (a) The terms and conditions of the existing permit are not being satisfactorily met;

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

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

- (14) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.
- (15) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit.
- (16) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by the permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that the extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time the construction of the synthetic fuel or generating facility is initiated.
- (17) Each application for a permit or revision for auger mining on a previously mined area shall contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.
- (18) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Signed by Governor March 27, 2017.

CHAPTER 143

(HB 215)

AN ACT relating to vehicle accident reports.

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

➔Section 1. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident

reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his *or her* law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.
- (6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.
- (8)
 - (a) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report.
 - (b) *A newspaper or periodical shall be considered a news-gathering organization if it:*
 1. *Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;*
 2. *Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and*
 3. *Contains news of general interest to its readers that can include news stories, editorials, sports, weddings, births, and death notices.*
 - (c) A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
 - (d) *For the purposes of this section, the meaning of "news-gathering organizations" does not include any product or publication:*
 1. *Which is intended primarily for members of a particular profession or occupational group; or*

2. *With the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.*
- (e) *A request under this section shall be completed using a form promulgated by the department through administrative regulations in accordance with KRS Chapter 13A. The form under this paragraph shall include:*
 1. *The name and address of the requestor and the news-gathering organization the requestor represents;*
 2. *A statement that the requestor is a news-gathering organization under this subsection;*
 3. *A statement that the request is in compliance with the criteria contained in this section; and*
 4. *A declaration of the requestor as to the accuracy and truthfulness of the information provided in the request.*
- (9) The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.
- (10) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Signed by Governor March 27, 2017.

CHAPTER 144

(HB 208)

AN ACT relating to funeral planning.

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

➔Section 1. KRS 367.93103 is amended to read as follows:

- (1) A person who is of sound mind and is at least eighteen (18) years of age may execute a declaration.
- (2) A declaration shall not be included in:
 - (a) A will;
 - (b) A power of attorney; or
 - (c) A similar document.
- (3) A declaration shall designate an individual to serve as the designee, or if no designee is designated shall provide instruction concerning funeral services, ceremonies, and the disposition of remains after death.
- (4) A declaration, at a minimum, shall be:
 - (a) Voluntary;
 - (b) In writing;
 - (c) Signed by the declarant or by another person in the declarant's presence and at the direction of the declarant;
 - (d) Dated;
 - (e) Signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age at the time they sign the declaration; and

- (f) Acknowledged before a notary public or other person authorized to administer oaths.
- (5) A declaration is not binding upon a funeral home, a cemetery, or any person engaged in the business of providing funeral services, selling merchandise or grave markers, or providing a service or other property subject to the declaration until the funeral home, cemetery, or person receives full payment for the service, merchandise, or other property.
- (6) A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated by the declarant to serve as his or her designee.
- (7) Unless an individual is related to the declarant by birth, marriage, or adoption, a declarant shall not designate an individual to be his or her designee or alternate designee who is:
 - (a) A provider of funeral or cemetery services; *or*
 - (b) ***Employed by***~~Responsible for any aspect of the disposition of the declarant's remains; or~~
 - ~~(c) Associated with~~ any entity that is responsible for providing funeral or cemetery services or disposing of the declarant's remains.
- (8) The following shall not be a witness to a declaration:
 - (a) The person who signed the declaration on behalf of and at the direction of the declarant; *or*
 - (b) ~~A parent, spouse, or child of the declarant;~~
 - ~~(c) The person identified as the designee; or~~
 - ~~(d) An individual who is entitled to any part of the declarant's estate whether the declarant dies testate or intestate, including an individual who could take from the declarant's estate if the declarant's will is declared invalid.~~

➔Section 2. KRS 367.93115 is amended to read as follows:

- (1) If any designee, alternate designee, or person described in KRS 367.93117 fails to assume an obligation set forth in the declaration, within five (5) days of notification of the declarant's death, the authority to make arrangements shall devolve pursuant to the terms of the declaration or KRS 367.93117.
- (2) ***In the absence of a declaration, if a person described in Section 3 of this Act fails to assume responsibility for a decedent's remains within five (5) days of notification of the decedent's death, the authority to make arrangements shall devolve pursuant to Section 3 of this Act.***

➔Section 3. KRS 367.93117 is amended to read as follows:

The right to control the disposition of a decedent's body, make arrangements for funeral services, make arrangements for burial, and to make other ceremonial arrangements after an individual's death devolves on the following in the priority listed:

- (1) A person:
 - (a) Named as the designee or alternate designee in a declaration executed by the decedent under KRS 367.93101 to 367.93121; or
 - (b) Named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense if the decedent died while serving in any branch of the United States Armed Forces, pursuant to KRS 36.440;
- (2) The decedent's surviving spouse;
- (3) A surviving adult child of the decedent or, if more than one (1) adult child is surviving, the majority of the adult children. Less than half of the surviving adult children have the right to control disposition under this section if the child or children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children and this has been attested to in writing;
- (4) The surviving parent or parents of the decedent. If one (1) of the parents is absent, the parent who is present has the right to control disposition under this section if the parent who is present has used reasonable efforts to notify the absent parent and attests to that in writing;

- (5) The surviving adult grandchild of the decedent or, if more than one (1) adult grandchild is surviving, the majority of the adult grandchildren. Less than half of the surviving adult grandchildren have the right to control disposition under this section if the grandchild or grandchildren have used reasonable efforts to notify the other surviving adult grandchildren of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult grandchildren and this has been attested to in writing;
- (6) The decedent's surviving adult sibling or, if more than one (1) adult sibling is surviving, the majority of the adult siblings. Less than half of the surviving adult siblings have the right to control disposition under this section if the sibling or siblings have used reasonable efforts to notify the other surviving adult siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult siblings and this has been attested to in writing;
- (7) An individual in the next degree of kinship under KRS 391.010 to inherit the estate of the decedent or, if more than one (1) individual of the same degree is surviving, the majority of those who are of the same degree of kinship. Less than half of the individuals who are of the same degree of kinship have the right to control disposition under this section if they used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship and this has been attested to in writing;~~or~~
- (8) If none of the persons described in subsections (1) to (7) of this section are available, ***the following may act and arrange for the final disposition of the decedent's remains***~~any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home, that:~~
 - (a) ***Any other person willing to act and arrange for the final disposition of the decedent's remains who attests in writing that a good-faith effort has been made to contact any living individuals described in subsections (1) to (7) of this section; or***~~Has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent's remains; and~~
 - (b) ***A funeral home that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent's remains if the funeral director attests in writing that a good-faith effort has been made to contact any living individuals described in subsections (1) to (7) of this section; or***
- (9) ***The District Court in the county of the decedent's residence or the county in which the funeral home or the crematory is located.***

➔Section 4. KRS 367.93121 is amended to read as follows:

An action to contest or determine the validity of any declaration made under KRS 367.93101 to 367.93121 ***or cremation authorization form, or to resolve a conflict between an executed cremation authorization form and the person or persons authorized in Section 3 of this Act regarding cremation,*** shall be:

- (1) Brought in the ***District Court of the county of the decedent's residence or the county in which the funeral home or the crematory is located***~~same manner as an action to contest the validity of a will~~;
- (2) Expedited on the docket of the court as a matter requiring priority; and
- (3) Accompanied by a bond, cash deposit, or other surety sufficient to guarantee that the entity holding the declarant's remains is compensated for the safekeeping charges incurred while the action is pending.

Signed by Governor March 27, 2017.

CHAPTER 145

(HB 200)

AN ACT relating to orders of restitution and forfeiture following a criminal conviction of cruelty to animals in the second degree.

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

➔Section 1. KRS 525.130 is amended to read as follows:

- (1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:
 - (a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;
 - (b) Subjects any animal in his custody to cruel neglect; or
 - (c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.
- (2) Nothing in this section shall apply to the killing of animals:
 - (a) Pursuant to a license to hunt, fish, or trap;
 - (b) Incident to the processing as food or for other commercial purposes;
 - (c) For humane purposes;
 - (d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
 - (e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;
 - (f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
 - (g) In defense of self or another person against an aggressive or diseased animal;
 - (h) In defense of a domestic animal against an aggressive or diseased animal;
 - (i) For animal or pest control; or
 - (j) For any other purpose authorized by law.
- (3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.
- (4) Cruelty to animals in the second degree is a Class A misdemeanor.
- (5) ***If a person is convicted of or pleads guilty to an offense under subsection (1) of this section arising from the person's treatment of an equine, the court may impose one (1) or both of the following penalties against the person, in addition to fines and imprisonment:***
 - (a) ***An order that the person pay restitution for damage to the property of others and for costs incurred by others, including reasonable costs, as determined by agreement or by the court after a hearing, incurred in feeding, sheltering, veterinary treatment, and incidental care of any equine that was the subject of the offense resulting in conviction; or***
 - (b) ***An order terminating or imposing conditions on the person's right to possession, title, custody, or care of any equine that was the subject of the offense resulting in conviction.***

If a person's ownership interest in an equine is terminated by a judicial order under paragraph (b) of this subsection, the court may order the sale, conveyance, or other disposition of the equine that was the subject of the offense resulting in conviction.

Signed by Governor March 27, 2017.

(HB 184)

AN ACT relating to overweight and overdimensional vehicles.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

After the effective date of this section and until June 30, 2020:

- (1) *As used in this section, "metal commodities" means output products from metal-producing industries that are transported in their most basic and original form from a mill or storage facility to market for processing. "Metal commodities" does not include manufactured parts being transported from a manufacturer or supplier to another customer;*
- (2) *The department shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual and single-trip permits for the operation of motor vehicles transporting metal commodities with a minimum gross weight of eighty thousand and one (80,001) pounds and a maximum gross weight of one hundred twenty thousand (120,000) pounds in divisible or nondivisible loads to or from a facility manufacturing metal commodities in this state or a facility used for storage of metal commodities;*
- (3) *A motor carrier transporting metal commodities in divisible or nondivisible loads to or from a facility manufacturing metal commodities in this state or a facility used for storage of metal commodities, may apply for an annual or single-trip overweight permit pursuant to subsection (2) of this section. A permit issued under this section shall be specific to a single truck and shall be valid twenty-four (24) hours a day;*
- (4)
 - (a) *The cost of an annual permit issued under this section shall be one thousand two hundred fifty dollars (\$1,250).*
 - (b) *The cost of a single-trip permit issued under this section shall be one hundred dollars (\$100);*
- (5) *Permits issued under this section shall contain a Web site hyperlink or any other method to provide the motor carrier with routes that are approved by the department;*
- (6) *Upon renewal of any annual permit issued under this section, the permit holder shall report to the cabinet the number of trips made and the total miles driven under the permit during the previous year; and*
- (7) *Administrative regulations promulgated by the department under this section may require motor carriers to meet specific Federal Motor Carrier Safety Administration (FMCSA) safety ratings and FMCSA safety measurement system scores before issuance of a permit under this section.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to promote economic development and retain jobs within this state, subject to the provisions of Section 3 of this Act, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing products in this state or a facility used for storage of those products, whose gross weight exceeds the limits prescribed by this chapter. In no instance shall the gross weight limits issued pursuant to this section exceed one hundred twenty thousand (120,000) pounds. The movement of the products or materials shall be limited to no more than one hundred fifty (150) miles within the state.*
- (2) *A motor carrier transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing steel products in this state or a facility used for storage of those products, may apply for an annual overweight permit pursuant to subsection (1) of this section. The permit shall be valid twenty-four (24) hours a day, but shall be limited to movements of steel products or steel materials of not more than one hundred fifty (150) miles within the state. The cost of the annual permit shall be two hundred fifty dollars (\$250).*

➔Section 3. KRS 189.222 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable

classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

- (a)
 1. ***Height, for vehicles transporting motor vehicles, fourteen (14) feet;***
 2. ***Height, for all other vehicles,*** thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
 - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) Except as provided for in paragraph (f) of this subsection, truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same;
 - (f) A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate or parkway exit.
- (2) In addition to the provisions of KRS 189.2226, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:
 - (a) Meats or agricultural crop products originating from a farm to first market;
 - (b) Livestock or poultry from their point of origin to first market;
 - (c) Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or
 - (d) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.
 - (3) Vehicles registered under KRS 186.050(4)(b) that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section may exceed the gross weight provisions set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
 - (4) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles.
 - (5) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete

shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

- (6) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- (7) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- (8) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- (9) Except as otherwise provided in this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
 - (a) Width, one hundred two (102) inches, including any part of the body or load;
 - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- (10) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- (11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

➔Section 4. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, ~~for 189.270, or~~ **Section 1 of this Act** shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
- (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, **Section 1 of this Act**, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) **On or after July 1, 2020:**
1. ***Any person who violates the weight provisions of Section 2 of this Act shall be subject to the penalties outlined in paragraph (a) of this subsection; and***
 2. ***Any person who violates any provision of Section 2 of this Act for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).***
- (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.
- (30) ~~[(a) Prior to January 1, 2011, any person who violates KRS 189.292 or 189.294 shall not be issued a uniform citation, but shall instead receive a courtesy warning.~~
- ~~[(b) On or after January 1, 2011, any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.~~

➔Section 5. The Interim Joint Committee on Transportation of the Legislative Research Commission is directed to conduct a review of the effect that overweight and overdimensional vehicles have on the Commonwealth's roadways and railroad infrastructure. As part of this review the Committee shall:

- (1) Identify major routes traveled by vehicles that operate under overweight or overdimensional permits;
- (2) Obtain from the Transportation Cabinet an assessment of sections of roadways that show possible damage from vehicles operating under an overweight or overdimensional permit;
- (3) Obtain from the rail industry an assessment of sections of regularly damaged rails at railroad crossings;
- (4) Analyze the data to determine whether there is any correlation between overweight or overdimensional vehicles and roadway or rail damage
- (5) Examine issues of model parity by determining if an increase in the allowable weight of motor carriers, by permit, has an impact on the diversion of this same freight from other modes; and
- (6) Determine whether fees for overweight permits and taxes paid by motor carriers are at an appropriate level to properly compensate for any increased damage to roadways.

➔Section 6. The Committee shall transmit the results of the study to the Legislative Research Commission by September 30, 2019.

➔Section 7. Provisions of Sections 5 and 6 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and to designate a study completion date.

➔Section 8. The provisions of Sections 5 to 8 of this of this Act shall have the same legal status as a House Concurrent Resolution.

➔Section 9. 2017 RS HB 174/GA (2017 Ky. Acts ch. 8) shall be amended as follows:

On page 3, delete lines 7 through 16 in their entirety and insert the following in lieu thereof:

- "(3) Vehicles registered under KRS 186.050~~[(4)(b)]~~ that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section may exceed the gross weight provisions set forth in

subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system."

➔Section 10. Section 2 of this Act takes effect July 1, 2020.

➔Section 11. The following KRS section is repealed:

189.2715 Annual overweight permit for transporting steel products or materials -- Weight and mileage limitations.

Signed by Governor March 27, 2017.

CHAPTER 147

(HB 161)

AN ACT relating to service-disabled veteran-owned small businesses.

WHEREAS, the 2016 General Assembly enacted legislation establishing a certification program within the Office of Equal Employment Opportunity and Contract Compliance, Finance and Administration Cabinet, for service-disabled veteran-owned businesses; and

WHEREAS, the Governor has publicly declared that one of his administration's key objectives is to promote a robust economic climate in the Commonwealth, and as a military veteran, he actively supports veterans in their entrepreneurial endeavors; and

WHEREAS, the Office of Equal Employment Opportunity and Contract Compliance has undertaken outreach efforts to engage the service-disabled veteran-owned business community; and

WHEREAS, it is in the interest of all citizens of the Commonwealth to increase the number of service-disabled veteran-owned businesses; and

WHEREAS, large procurement contracts are facilitated by the Finance Cabinet's Office of Procurement Services, and the Cabinet's Small Purchase Authority guidelines allow executive branch agencies to solicit and contract for goods and services between \$1,000 to \$20,000, depending on the specific authority granted to an agency; and

WHEREAS, the General Assembly seeks to encourage agencies to widen their reach to solicit and work with service-disabled veteran-owned businesses on smaller contract opportunities and to assist these businesses in seeking portions of multi-faceted contracts that may be fulfilled by a service-disabled veteran-owned businesses;

NOW, THEREFORE,

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

➔Section 1. (1) The Finance and Administration Cabinet shall require executive branch agencies to promote and publicize opportunities for service-disabled veteran-owned businesses to contract for goods and services, and shall actively engage and counsel veterans' organizations on the contract opportunities available to service-disabled veteran-owned businesses.

(2) The Office of Procurement Services shall provide state agencies with information on how to locate service-disabled veteran-owned vendors and businesses.

(3) Agencies that use their Small Purchase Authority shall solicit at least one quote from a service-disabled veteran-owned vendor or business unless there are no service-disabled veteran-owned vendors or businesses that can provide the particular product or service in question.

(4) Agencies shall document businesses that are solicited when quotes are issued and shall record which vendors are service-disabled veteran-owned vendors or businesses.

➔Section 2. The success of this outreach process shall be measured by monitoring the number of service-disabled veteran-owned businesses registered in eMARS, the increase in solicitations issued to service-disabled veteran-owned businesses, the increase in quotes received from service-disabled veteran-owned businesses, and the increase in the value of contracts issued to service-disabled veteran-owned businesses.

➔Section 3. By October 1 of each year, the Finance and Administration Cabinet shall submit an annual report detailing their efforts to assist service-disabled veteran-owned businesses to the Legislative Research Commission for distribution to the appropriate interim joint committees or standing committees for their review and consideration.

Signed by Governor March 27, 2017.

CHAPTER 148

(HB 27)

AN ACT relating to speed titles.

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

➔Section 1. KRS 186A.170 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall:
 - (a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner; and
 - (b) Within **forty-eight (48)**~~twenty-four (24)~~ hours following electronic notification by a county clerk's office of an application for a certificate of title, issue a speed title which shall be held for pickup or returned to the owner by mail. The clerk shall take the application for title and process the appropriate paperwork as provided for in this chapter. The department may provide, by administrative regulation, for exceptions to the speed title procedure.
- (2) Upon receiving an application packet from a county clerk, the application receipt clerk of the Department of Vehicle Regulation shall:
 - (a) Cause the date and time of receipt to be stamped on both the department's copy and the acknowledgment copy of the application transmittal record and accompanying documents;
 - (b) Cause at least duplicate sets of images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys; and
 - (c) Compare the application transmittal record with the documents accompanying it and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.
- (3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the Department of Vehicle Regulation shall note the discrepancy upon the department's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the department shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.
- (4) After executing the acknowledgment of receipt of applications, the Department of Vehicle Regulation shall carry out the following action with respect to each application:
 - (a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The Department of Vehicle Regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;
 - (b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;
 - (c) Ensure that the vehicle identification number of the subject vehicle is apparently legitimate;

- (d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the National Crime Information Center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it; and
 - (e) Compare the computer-produced certificate of title for consistency with the owner's application and supporting documents.
- (5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.
 - (6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.
 - (7) The Department of Vehicle Regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:
 - (a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;
 - (b) His application is not in order;
 - (c) The documentation supporting an application is insufficient or fraudulent;
 - (d) The vehicle has an illegitimate vehicle identification number;
 - (e) The vehicle is stolen; or
 - (f) That the computer-produced certificate of title is not consistent with the owner's application.
 - (8) In the case of multiple owners, the Department of Vehicle Regulation shall require only two (2) primary owners' names to be printed on the certificate of title. Upon submission of the title application, if more than two (2) owners are listed, the primary owners shall be determined by the title applicants. In such instances, the certificate of the title shall note that there are more than two (2) owners. The names of all title applicants shall be documented in AVIS.
 - (9) When the Department of Vehicle Regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the Department of Vehicle Regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the Department of Vehicle Regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. ----- (signature), commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet.

Signed by Governor March 27, 2017.

CHAPTER 149

(HJR 56)

A JOINT RESOLUTION directing the Kentucky Division of Water in the Energy and Environment Cabinet to study privately owned and operated small wastewater treatment systems and declaring an emergency.

WHEREAS, there are over 200 privately owned wastewater package treatment plants in operation in the Commonwealth with a presence in nearly every county; and

WHEREAS, these privately owned and operated small wastewater treatment plants are commonly older than their design life and are approaching critical service junctures wherein the plants may need significant infrastructure investments to continue service; and

WHEREAS, environmental regulation, relatively small customer bases, and aging infrastructure may affect the costs of operation of these plants; and

WHEREAS, owners of privately owned and operated small wastewater treatment plants, for a variety of reasons, including death, financial distress, and abandonment, become divested of the plants, leaving the users in a situation that is not easily remedied; and

WHEREAS, these privately owned and operated small wastewater treatment plants are all regulated by way of the Clean Water Act Section 402 permit process and related programs and commonly cannot meet compliance standards; and

WHEREAS, the financial, managerial, and technical capacities of these privately owned and operated small wastewater treatment plants are commonly such that the continued operation of these plants is not sustainable;

NOW, THEREFORE,

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

➔Section 1. The Division of Water in the Energy and Environment Cabinet is directed to:

(1) (a) Identify the privately owned and operated small wastewater treatment plants in Kentucky and collect the relevant information regarding the plant and collection system attributes;

(b) Identify indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants;

(c) Identify potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities; and

(d) Identify legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants' customers.

(2) The Division of Water shall prepare a report that outlines potential measures to ensure the sustainability of privately owned and operated small wastewater treatment plants and identifies actions, including proposed legislative changes, that may mitigate the failure or abandonment of privately owned and operated small wastewater treatment plants.

➔Section 2. The Division of Water is further directed to accomplish the directives set out in Section 1 of this Resolution by conferring with the following entities:

- (1) Kentucky Infrastructure Authority;
- (2) Kentucky Public Service Commission;
- (3) Kentucky Department for Public Health;
- (4) Kentucky Rural Water Association;
- (5) Kentucky Rural Community Assistance Partnership;
- (6) Kentucky League of Cities;
- (7) Kentucky Council of Area Development Districts;
- (8) Kentucky Water and Wastewater Operators Association;
- (9) Kentucky Association of Counties;
- (10) Kentucky Municipal Utilities Association;
- (11) American Council of Engineering Companies—Kentucky;
- (12) Kentucky Attorney General's Office of Rate Intervention;
- (13) One member of the Kentucky Senate, as appointed by the Senate President;
- (14) One member of the Kentucky House of Representatives, as appointed by the Speaker of the House; and
- (15) Any other entity or individual whose involvement is deemed necessary by the Division to accomplish the goals of the study.

➔Section 3. The Division of Water shall:

(1) No later than July 31, 2017, present a progress report to the Legislative Research Commission, which shall refer the report to the Interim Joint Committee on Natural Resources and Environment and the Interim Joint Committee on Local Government. That report shall include a summary of the division's research it has gathered relative to subsection (1) of Section 1 of this Act, as well as providing a planned timeline for the remaining work. The report may include such other information the division deems useful or otherwise informative to the committees.

(2) On or before December 1, 2017, prepare and present to the Legislative Research Commission the report required by subsection (2) of Section 1 of this Resolution. The Legislative Research Commission shall refer that report to the Interim Joint Committee on Natural Resources and Environment and the Interim Joint Committee on Local Government.

➔Section 4. Whereas, the Division of Water will require time to complete the study prior to the report deadlines and the commencement of the 2018 Regular Session of the General Assembly, and to allow time for any legislative recommendations to be considered prior to that session, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2017.

CHAPTER 150

(SB 222)

AN ACT relating to consolidated local governments.

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

➔Section 1. KRS 67C.103 is amended to read as follows:

- (1) The legislative authority of a consolidated local government, except as otherwise specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.
- (2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by KRS 67C.135. The population of the council districts shall be as nearly equal as is reasonably possible. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.
- (3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.
- (4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election, except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.
- (5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.

- (6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least eighteen (18) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.
- (7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.
- (8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least **one (1)**~~two (2)~~ regular **meeting**~~meetings~~ per month. No newspaper notice shall be required for regular or special meetings of the consolidated local government council. However, notice of all meetings of the council and all meetings of committees of the council shall be held pursuant to KRS 61.805 to 61.850.
- (9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.
- (10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.
- (11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:
 - (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.
- (12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, the council by majority vote of the membership of the council shall elect a qualified resident of the council district not later than thirty (30) days after the date the vacancy occurs. Should the council fail to elect, by majority vote of the membership of the council, a qualified person to fill the vacancy within thirty (30) days, the mayor of the consolidated local government shall fill the vacancy by appointment of a qualified person for the unexpired term.
- (13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:
 - (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;
 - (b) Review the budgets of and appropriate money to the consolidated local government;
 - (c) Adopt a budget ordinance;
 - (d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;
 - (e) Establish standing and temporary committees;~~and~~
 - (f) Make independent audits and investigations concerning the affairs of the consolidated local government **and any board or commission that:**
 1. ***Is composed of members who are appointed by the mayor and approved by the legislative council; or***
 2. ***Has a budget that is equal to or greater than one million dollars (\$1,000,000.00), except that this subparagraph shall not apply to any fee officer elected within the consolidated local government.***

- (14) (a) *The consolidated local government council shall establish a Government Oversight and Audit Committee. This committee shall be:*
1. *Composed of members from each of the two (2) largest political caucuses in the legislative council;*
 2. *Appointed by the chairs of their respective caucuses; and*
 3. *Composed on the basis of the proportion of each of the two (2) caucus' total membership as compared to the total membership of the legislative council. Any fractional proportions shall be rounded in the favor of the smallest caucus' membership on the committee.*
- (b) *The committee shall have the power to:*
1. *Compel testimony and the submission of work papers or documents;*
 2. *Issue subpoenas to compel any officer of or appointee to a board or commission described in paragraph (f) of subsection (13) of this section or any department or division of the consolidated local government to appear before the committee and to compel the submission to the committee of any work papers or documents pertinent to an independent audit or investigation. Any subpoenas issued or testimony compelled shall be subject to any relevant statutes concerning privacy. Testimony subject to KRS 61.810 shall only be taken in executive session. The right to privacy or the requirement that testimony be taken in executive session may be waived by the person or entity being subpoenaed or compelled to testify;*
 3. *Petition the appropriate Circuit Court to compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify therein, if any officer or appointee fails or refuses to testify or furnish the work papers or documents subpoenaed;*
 4. *Administer oaths to witnesses appearing before the committee when the committee deems the administration of an oath necessary and advisable as provided by law. This decision to administer oaths shall be taken by a majority vote of the committee of the legislative council; and*
 5. *Recommend the removal of any appointee to a board or commission described in paragraph (f) of subsection (13) of this section.*
- (c) *The legislative council of the consolidated local government shall adopt by resolution any process or procedures deemed necessary for the administration of subpoenas and oaths.*
- (d) *The legislative council of the consolidated local government may only act to remove an appointee to a board or commission described in paragraph (f) of subsection (13) of this section upon the recommendation of the Government Oversight and Audit Committee.*
- (e) *The Government Oversight and Audit Committee shall have the power to issue subpoenas or administer oaths. Except as provided in subsection (7) of Section 7 of this Act, the legislative council of the consolidated local government shall not delegate those powers to any other entity or entities not a part of the legislative council of the consolidated local government.*
- (15) The consolidated local government council shall be known as the legislative council of County Metro Government, which shall be a combination of the names of the largest city in existence in the county on the date of the adoption of the consolidated local government and the county.
- ➔Section 2. KRS 67C.105 is amended to read as follows:
- (1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of KRS 67C.101 to 67C.137.
 - (2) (a) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth.
 - (b) The mayor shall assume office on the first Monday in January following his or her election. He or she shall serve until a successor qualifies.

- (c) ~~The mayor~~^{and} may serve for no more than three (3) consecutive terms, after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.
- (3) The mayor shall be at least twenty-one (21) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.
- (4) Except as otherwise provided in KRS 67C.101 to 67C.137, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.
- (5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by KRS 67C.101 to 67C.137 or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:
- (a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;
 - (b) Submit an annual budget *no fewer than sixty (60) days prior to the end of the fiscal year*;
 - (c) Oversee the administration and implementation of the adopted budget ordinance;
 - (d) Enforce the ordinances of the consolidated local government;
 - (e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;
 - (f) Call special meetings of the consolidated local government council;
 - (g) Appoint and remove his or her own staff at his or her own pleasure;
 - (h) Execute written contracts, *subscriptions, agreements*, or obligations of the consolidated local government;~~and~~
 - (i) Approve or veto ordinances and resolutions adopted by the consolidated local government council;
 - (j) *Submit any written contracts, subscriptions, agreements, or obligations exceeding the small purchase amount established pursuant to KRS 45A.385 in a resolution to the legislative council for its approval or its disapproval. Those written contracts, subscriptions, agreements, or obligations awarded to the lowest evaluated bid or proposal pursuant to KRS 45A.343 to 45A.460 shall be excluded, unless the legislative council changes the threshold for submission of a resolution. The legislative council may, by ordinance, set threshold amounts other than those established by KRS 45A.385 for the small purchases for submission of a resolution for its approval or disapproval; and*
 - (k) *Appoint a deputy mayor within seven (7) days of the mayor taking the oath of office and keep the office of deputy mayor filled throughout the mayor's term. The deputy mayor shall:*
 1. *Meet all the qualifications for mayor established pursuant to subsection (3) of this section;*
 2. *Serve at the mayor's pleasure and may be replaced by the mayor for any cause; and*
 3. *Have only the duties assigned to him or her by the mayor.*
- (6) (a) ~~If in case~~ the office of mayor becomes vacant by reason of death, resignation, or removal:
1. *The deputy mayor shall become the temporary mayor, inheriting all powers and duties of the mayor;*
 2. *The deputy mayor shall serve as temporary mayor for no more than thirty (30) days until the council, by a majority vote of the members of the council, shall elect a resident of the consolidated local government who meets the qualifications for mayor established pursuant to subsection (3) of this section to serve as mayor. The council may select the temporary mayor for this position. If the legislative council fails to elect a person to fill the vacancy within thirty (30) days after the vacancy occurs, the Governor shall fill the vacancy in the office by appointment of a qualified person who is a resident of the consolidated local government and meets the qualifications for mayor established pursuant to subsection (3) of this section; and*

3. *The tenure of the gubernatorial appointment shall be governed by Section 152 of the Kentucky Constitution.*
- (b) *If the offices of both the mayor and deputy mayor become vacant by reason of death, resignation, or removal:*
 1. *The presiding officer of the consolidated local government council shall become the temporary mayor, inheriting all powers and duties of the mayor;*
 2. *The presiding officer shall serve as temporary mayor for no more than thirty (30) days until the council shall, by a majority vote of the members of the council, elect a resident of the consolidated local government who meets the qualifications for mayor established pursuant to subsection (3) of this section. The council may select the temporary mayor for this position. If the legislative council fails to elect a person to fill the vacancy within thirty (30) days after the vacancy occurs, the Governor shall fill the vacancy in the office by appointment of a qualified person who is a resident of the consolidated local government and meets the qualifications for mayor established pursuant to subsection (3) of this section; and*
 3. *The tenure of the gubernatorial appointment shall be governed by Section 152 of the Kentucky Constitution*~~[, the members of the legislative council of the consolidated local government shall by a majority vote of the membership of the council elect a qualified person to fill the vacancy in the office of the mayor not later than thirty (30) days after the date on which the vacancy occurs for the unexpired term. The members of the legislative body of the consolidated local government may elect one (1) of their members to serve as temporary mayor until they are able to hold the election to fill the vacancy for the unexpired term. If the legislative council fails to elect a person to fill the vacancy within thirty (30) days after the vacancy occurs, the Governor shall fill the vacancy in the office by appointment of a qualified person for the unexpired term].~~

- (7) The mayor of a consolidated local government shall be known as the mayor of/..... County Metro Government, which shall be a combination of the names of the largest city in existence in the county on the date of the adoption of the consolidated local government and the county.

➔Section 3. KRS 67C.115 is amended to read as follows:

- (1) Upon the successful passage of the question to consolidate a city of the first class and its county, all ordinances and resolutions of the previously existing city of the first class and all ordinances and resolutions of the county shall become effective ordinances and resolutions of the consolidated local government until repealed, modified, or amended in accordance with the following order of precedence:
 - (a) If a city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide; and
 - (b) If a city ordinance addresses a subject matter not addressed by a county ordinance, the city ordinance shall become effective countywide; and
 - (c) If a county ordinance addresses a subject matter not addressed by a city ordinance, the county ordinance shall become effective countywide.

Notwithstanding paragraph (a) of this subsection and in the event a uniform land development code has not been jointly adopted by the city and county prior to the effective date of a consolidated local government, the historic preservation and landmarks ordinances, and the zoning regulations of the city adopted pursuant to KRS Chapter 100, shall prevail and become effective countywide.

- (2) Ordinances and resolutions of either the city of the first class or its county in existence on the effective date of a local government consolidation which conflict with other provisions of this chapter shall be void. Except as provided in KRS 67C.123(3), any ordinance, resolution, or order in effect in a city of the first class or its county on the date a consolidated local government takes effect shall expire five (5) years from that date unless amended or reenacted by the consolidated local government.
- (3) All ordinances of the city and county creating agencies and boards and interlocal agreements shall survive and be deemed reenacted by the council. All members may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law.
- (4) For purposes of this section, a conflict shall be deemed to exist between ordinances or resolutions, or the provisions of this chapter, where any rights, remedies, entitlements, or the enforcement thereof cannot reasonably be reconciled.

- (5) The county attorney shall serve as the legal advisor and representative to the consolidated local government and except for those duties pertaining to fiscal court set forth in KRS 69.210, the county attorney shall retain and exercise all other duties, powers, and rights delegated to that office by law. ***This subsection does not prevent the consolidated local government council from retaining its own legal counsel solely for advice and consultation should they choose to do so.***
- (6) Wherever the words "county judge" or "county judge/executive" appear in any resolution or ordinance in existence in a city of the first class or in a county containing a city of the first class as of the effective date of the establishment of a consolidated local government, they shall be deemed to mean the mayor of the consolidated local government.

➔Section 4. KRS 67C.131 is amended to read as follows:

- (1) The salary of the members of the legislative council of a newly consolidated local government created by the provisions of KRS 67C.101 to 67C.137 shall be eighty percent (80%) of that amount that is permitted for county commissioners on July 14, 2000, as provided by Section 246 of the Kentucky Constitution. In order to equate the compensation of legislative council members with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.
- (2) Each legislative council member may hire one (1) full-time staff person. ***In addition to that full-time staff person, the two (2) largest political caucuses within the legislative council may hire staff persons to meet the staffing needs of that caucus.***

➔Section 5. KRS 67C.139 is amended to read as follows:

If a cooperative compact exists between a city of the first class and its county prior to the creation of a consolidated local government, upon the establishment of the consolidated local government:

- (1) (a) The mayor of the consolidated local government shall assume all appointment authority previously held by the county judge/executive and the mayor of the consolidating governments. Appointments made by the mayor should reflect the ***political, geographic, gender, age, and racial*** diversity of the population within the jurisdiction of the consolidated local government. ***Upon the expiration of a term of appointment, the mayor shall make an appointment or reappointment within ninety (90) days of the term's expiration.***
- (b) ***If the mayor fails to make an appointment within ninety (90) days, the legislative council of the consolidated local government shall make the appointment within thirty (30) days after the expiration of the ninety (90) day period. The legislative council's appointment shall take into account the political, geographic, gender, age, and racial diversity of the population. The legislative council shall adopt a resolution specifying how these appointments shall be made; and***
- (2) (a) ***When authorized by statute, the mayor shall, subject to legislative council approval, determine which statutorily created agencies, boards, and commissions require legislative council approval for the appointment of members.***
- (b) 1. ***Subject to legislative council approval, the mayor shall determine the agencies, boards, and commissions to which legislative council members shall be appointed. The mayor's determination under this subparagraph shall be made in consultation with the Office of the Attorney General and shall not violate the incompatible offices prohibitions in KRS 61.080(3).***
2. ***The presiding officer of the legislative council shall make all legislative council appointments to agencies, boards, and commissions from the membership of the legislative council subject to subparagraph 1. of this paragraph.†***

~~The mayor, in consultation with the legislative council, shall, when authorized by statute, determine which agencies, boards, and commissions created by statute shall require legislative council approval for the appointment of members to such agencies, boards, and commissions.‡~~

- (c) The legislative council shall enact an ordinance setting out the role of the legislative council, if any, in the appointment process for each individual agency, board, and commission created by statute. Only one (1) agency, board, or commission shall be addressed per ordinance. Such ordinance shall require a vote of the majority of the entire membership of the legislative council for approval and shall be subject to mayoral veto and legislative override pursuant to KRS 67C.103(13)(a) and 67C.105(5)(i); and
- (3) The appointment of members to all agencies, boards, and commissions created by ordinance shall be determined by the ordinance creating the agency, board, or commission.

➔Section 6. KRS 67C.143 is amended to read as follows:

- (1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.
- (2) No elected officer shall be removed without having been given the right to a full public hearing.
- (3) A decision to remove a mayor, ~~for~~ legislative council member, **or appointee to a board or commission** shall require a vote of two-thirds (2/3) of the total number of legislative council members~~[sitting as a court]~~.
- (4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.
- (5) (a) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.
- (b) **Any appointee to a board or commission removed under this section shall not be eligible for:**
 - 1. ***The office from which he or she was removed before five (5) years following the date of his or her removal from that office; or***
 - 2. ***Appointment to a board or commission described in paragraph (f) of subsection (13) of Section 1 of this Act before five (5) years following the date of his or her removal from that office.***

➔Section 7. KRS 65.003 is amended to read as follows:

- (1) (a) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.
- (b) The boards, officers, and employees of special purpose governmental entities shall be subject to a code of ethics as provided in KRS 65A.070. As used in this section, special purpose governmental entity has the same meaning as in KRS 65A.010.
- (2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments, and to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:
 - (a) The provision of administrative services relating to the implementation of a code of ethics;

- (b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and
- (c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

- (3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:
 - (a) Standards of conduct for elected and appointed officials and employees;
 - (b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county, or consolidated local government, and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics;
 - (c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;
 - (d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.
- (4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.
- (5)
 - (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The Department for Local Government shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.
 - (b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall:
 - 1. Deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted; and
 - 2. Deliver a copy of the ordinance by which the code was amended to the governing body of each special purpose governmental entity that follows that establishing entity's code of ethics pursuant to KRS 65A.070.
 - (c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.
- (6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.
- (7) *Notwithstanding subsection (14)(e) of Section 1 of this Act, a simple majority of the legislative council of a consolidated local government may delegate its authority to issue administrative subpoenas for the*

attendance and testimony of witnesses and the production of documents relevant to possible violations of the code of ethics to the person or a majority of the group responsible for enforcement of a code of ethics. Subpoenas shall be served in the same manner as subpoenas for witnesses in civil cases. Compliance with the subpoenas shall be enforceable by the Circuit Court. Any failure to obey an order of the court may be punished by the court as contempt thereof.

Became law without Governor's signature.

CHAPTER 151

(SB 182)

AN ACT relating to local government procurement.

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

➔Section 1. KRS 45A.380 is amended to read as follows:

A local public agency may contract or purchase through noncompetitive negotiation only when a written determination is made that competition is not feasible and it is further determined in writing by a designee of the local public agency that:

- (1) An emergency exists which will cause public harm as a result of the delay in competitive procedures;~~{or}~~
- (2) There is a single source within a reasonable geographical area of the product or service to be procured;~~{or}~~
- (3) The contract is for the services of a licensed professional, such as attorney, physician, psychiatrist, psychologist, certified public accountant, registered nurse, or educational specialist; a technician such as a plumber, electrician, carpenter, or mechanic; or an artist such as a sculptor, aesthetic painter, or musician, provided, however, that this provision shall not apply to architects or engineers providing construction management services rather than professional architect or engineer services;~~{or}~~
- (4) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, such as fresh fruits, vegetables, fish or meat;
- (5) The contract is for replacement parts where the need cannot be reasonably anticipated and stockpiling is not feasible;
- (6) The contract is for proprietary items for resale;
- (7) In school districts the contract relates to an enterprise in which the buying or selling by students is a part of the educational experience;
- (8) The contract or purchase is for expenditures made on authorized trips outside of the boundaries of the local public agency;
- (9) The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids;
- (10) The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, and unemployment insurance;~~{or}~~
- (11) The contract is for a sale of supplies at reduced prices that will afford a purchase at savings to the local public agency; *or*
- (12) *The contract is with a private real estate developer and contains a requirement:*
 - (a) *That the developer increase the size or otherwise improve the collection capacity of the sanitary sewer or storm water pipe serving the affected private real estate development; and*
 - (b) *That the local public agency pay only the proportional cost of increasing the size, or otherwise improving the collection capacity, of the sanitary sewer or storm water pipe over the original collection capacity.*

Became law without Governor's signature March 27, 2017.

CHAPTER 152

(HB 471)

AN ACT amending the 2016-2018 executive branch biennial budget, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2016 Kentucky Acts Chapter 149, Part I, Operating Budget; A. General Government; 29. Teachers' Retirement System, at page 1054, is amended to read as follows:

29. TEACHERS' RETIREMENT SYSTEM

| | 2016-17 | 2017-18 |
|------------------|--------------------|--------------------|
| General Fund | 779,248,000 | 744,837,200 |
| Restricted Funds | 12,934,000 | 13,515,000 |
| TOTAL | 792,182,000 | 758,352,200 |

(1) State Medical Insurance Fund Financing: Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund.

(2) Additional Employer Contribution for Pension Fund: Included in the above General Fund appropriation is \$453,869,600 in fiscal year 2016-2017 and \$430,056,700 in fiscal year 2017-2018 to be applied to the unfunded pension liability of the Kentucky Teachers' Retirement System, of which \$9,598,200 in fiscal year 2016-2017 and \$19,288,600 in fiscal year 2017-2018 represent lesser debt service funding requirements for bonds previously issued for the Kentucky Teachers' Retirement System.

(3) Debt Service: Included in the above General Fund appropriation is \$106,838,400 in fiscal year 2016-2017 and \$97,148,000 in fiscal year 2017-2018 for debt service on previously issued bonds.

(4) State Annual Appropriations Deficit: Pursuant to KRS 161.550(6), the Kentucky Teachers' Retirement System has identified a \$24,613,400 deficit for fiscal years 2013-2014 and 2014-2015. A portion of this deficit shall be funded from \$11,624,800 from the state medical insurance fund stabilization contribution for fiscal year 2015-2016 within the General Fund appropriation specified in 2014 Ky. Acts ch. 117, Part I, A., 29., and identified as the excess amount of the state medical insurance fund stabilization contribution by the Kentucky Teachers' Retirement System. Included in the above General Fund appropriation is \$12,988,600 in fiscal year 2016-2017 for the remaining portion of the deficit.

(5) Administrative Costs: In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside in the expense fund or expended for the administration of the retirement system.

(6) Amortization of Sick Leave: Included in the above General Fund appropriation is \$5,623,500 in fiscal year 2016-2017 and \$11,660,200 in fiscal year 2017-2018 to provide the cost of amortizing the requirements of KRS 161.155, relating to sick leave, for members retiring during the 2016-2018 biennium.

(7) Contribution for Retiree Medical Insurance: Included in the above General Fund appropriation is \$46,545,800 in fiscal year 2016-2017 and \$53,948,400 in fiscal year 2017-2018 to support the state's contribution for the cost of retiree health insurance for members not eligible for Medicare, who have retired since July 1, 2010, pursuant to KRS 161.550.

(8) Direct Appropriation for Pension Liability: Included in the above General Fund appropriation is \$44,668,000 in each fiscal year to be applied to the unfunded pension liability of the Kentucky Teachers' Retirement System.

(9) Dependent Subsidy for Retirees under age 65: *Notwithstanding KRS 161.675(4)(a) and (b), from July 1, 2017, through June 30, 2018, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System Board of Trustees shall have the authority to pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS*

161.714. *If the Board of Trustees provides the dependent subsidy for Plan Year 2018, the Board shall submit a report to the Interim Joint Committee on Appropriations and Revenue stating the cost of such action for those retirees who retired before July 1, 2010, and the cost of such action for those retirees who retired on or after July 1, 2010, and providing the effect on the actuarial unfunded liability of the system. If the report is not submitted by September 15, 2017, the authority to pay the dependent subsidy shall be voided for Plan Year 2018.*

➔Section 2. 2016 Kentucky Acts Chapter 149, Part I, Operating Budget; C. Department of Education; 1. Support Education Excellence in Kentucky (SEEK), at pages 1056 to 1058, is amended to read as follows:

1. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK)

PROGRAM

| | 2016-17 | 2017-18 |
|--------------|----------------|----------------|
| General Fund | 3,035,747,400 | 3,024,776,100 |

(1) Common School Fund Earnings: Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) Allocation of SEEK Funds: Notwithstanding KRS 157.360(2)(c), the above General Fund appropriation to the base SEEK Program is intended to provide a base guarantee of \$3,981 per student in average daily attendance in fiscal year 2016-2017 and \$3,981 per student in average daily attendance in fiscal year 2017-2018 as well as to meet the other requirements of KRS 157.360.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose, except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with the approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act and KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430. Notwithstanding KRS 45.229, any unexpended SEEK funds shall not lapse and shall *carry forward into fiscal year 2017-2018 to be used for pupil transportation and distributed in accordance with KRS 157.370*~~[be transferred to the Kentucky Teachers' Retirement System to be applied to the system's unfunded pension liability].~~

(3) Base SEEK Allotments: Notwithstanding KRS 157.420(2), included in the above General Fund appropriation is \$2,101,558,200 in fiscal year 2016-2017 and \$2,089,985,500 in fiscal year 2017-2018 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is \$214,752,800 in each fiscal year for pupil transportation.

(4) Tier I Component: Included in the above General Fund appropriation is \$174,548,800 in fiscal year 2016-2017 and \$170,111,400 in fiscal year 2017-2018 for the Tier I component as established by KRS 157.440.

(5) Vocational Transportation: Included in the above General Fund appropriation is \$2,416,900 in each fiscal year for vocational transportation.

(6) Secondary Vocational Education: Included in the above General Fund appropriation is \$22,881,900 in fiscal year 2016-2017 and \$22,881,900 in fiscal year 2017-2018 to provide secondary vocational education in state-operated vocational schools.

(7) Teachers' Retirement System Employer Match: Included in the above General Fund appropriation is \$388,817,000 in fiscal year 2016-2017 and \$397,482,500 in fiscal year 2017-2018 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(8) Salary Supplements for Nationally Certified Teachers: Notwithstanding KRS 157.395, included in the above General Fund appropriation is \$2,750,000 in each fiscal year for the purpose of providing salary supplements for public school teachers attaining certification by the National Board for Professional Teaching Standards. Notwithstanding the provisions of KRS 157.395, if the appropriation is insufficient to provide the

mandated salary supplement for teachers who have obtained this certification, the Department of Education is authorized to pro rata reduce the supplement.

(9) Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year, the Commissioner of Education shall determine the exact amount of the public common school fund to which each district is entitled, and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(10) SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(11) Facilities Support Program of Kentucky/Equalized Nickel Levies: Included in the above General Fund appropriation is \$80,109,500 in fiscal year 2016-2017 and \$78,002,400 in fiscal year 2017-2018 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

(12) Growth Levy Equalization Funding: Included in the above General Fund appropriation is \$17,234,200 in fiscal year 2016-2017 and \$16,414,200 in fiscal year 2017-2018 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620, for districts meeting the eligibility requirements of KRS 157.621(1) and (4).

(13) Retroactive Equalized Facility Funding: Included in the above General Fund appropriation is \$16,377,200 in fiscal year 2016-2017 and \$15,973,300 in fiscal year 2017-2018 to provide equalized facility funding pursuant to KRS 157.440 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(2) and (4). In addition, a local board of education that levied a tax rate subject to recall by January 1, 2014, in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. Revenue to generate the five cent equivalent levy may be obtained from levies on property, motor vehicles, or the taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 if the levy was dedicated to facilities funding at the time of the levy. The equalization funds shall be used as provided in KRS 157.440(1)(b). For the 2016-2018 fiscal biennium, school districts that levied the tax rate subject to recall prior to January 1, 2014, shall be equalized at 100 percent of the calculated equalization funding, and school districts that levied the tax rate subject to recall after January 1, 2014, and before January 1, 2016, and began collecting the tax by fiscal year 2016-2017, shall be equalized at 25 percent of the calculated equalization funding in each fiscal year. It is the intent of the 2016 General Assembly that any local school district receiving partial equalization under this subsection in the 2016-2018 fiscal biennium shall receive full calculated equalization in the 2018-2020 fiscal biennium and thereafter.

(14) Equalized Facility Funding: Included in the above General Fund appropriation is \$6,829,600 in fiscal year 2016-2017 and \$6,658,300 in fiscal year 2017-2018 to provide equalized facility funding pursuant to KRS 157.420 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(3) and (4).

(15) BRAC Equalized Facility Funding: Included in the above General Fund appropriation is \$1,832,000 in fiscal year 2016-2017 and \$1,764,100 in fiscal year 2017-2018 to provide equalized facility funding to school districts meeting the eligibility requirements of KRS 157.621(1)(c) pursuant to KRS 157.440 and 157.620.

(16) Equalization Funding for Critical Construction Needs Schools: Included in the above General Fund appropriation is \$5,639,300 in fiscal year 2016-2017 and \$5,532,800 in fiscal year 2017-2018 to school districts in accordance with 2010 (1st Extra. Sess.) Ky. Acts ch. 1, Part I, C., 4., (18).

(17) Hold-Harmless Guarantee: A modified hold-harmless guarantee is established in fiscal biennium 2016-2018 which provides that every local school district shall receive at least the same amount of Support Education Excellence in Kentucky (SEEK) state funding per pupil as was received in fiscal year 1991-1992. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, and allotments to local school districts are reduced in accordance with KRS 157.430, allocations to school districts subject to this provision shall not be reduced.

(18) Residential Youth-at-Risk Programs: In accordance with KRS 157.360, no funds from the SEEK Program shall be distributed to the programs operated by the Kentucky Guard Youth Challenge Division of the Department of Military Affairs. Notwithstanding KRS 157.350, 157.360, 157.410, and any other statute to the contrary, any nonresident school district providing educational services to students enrolled in programs operated by the Kentucky Guard Youth Challenge Division of the Department of Military Affairs shall be paid for those services from the General Fund appropriation in Part I, A., 8. of this Act.

(19) Additional SEEK Funding: If the General Fund appropriation contained in 2014 Ky. Acts ch. 117, Part I, C., 1. is not sufficient to fully fund the SEEK Program, including any adjustments pursuant to KRS 157.360 in fiscal year 2015-2016, or if the above General Fund appropriation is not sufficient to fully fund the SEEK Program, including any adjustments pursuant to KRS 157.360 in fiscal year 2016-2017 or fiscal year 2017-2018, the Kentucky Department of Education may request up to \$10,000,000 in each fiscal year, which shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(20) Public Charter Schools: For fiscal year 2017-2018:

(a) *A public charter school shall serve as a school of location within its local education agency;*

(b) *Attendance for a student enrolled in a public charter school who resides within the boundaries of the local school district where the public charter school is located shall be included and reported in the local school district's Superintendent's Annual Attendance Report and any other reports used for enrollment and attendance purposes required to be submitted to the Kentucky Department of Education. This data shall be used to calculate funding for the local school district pursuant to KRS 157.360 and 157.440(1)(a);*

(c) *A local school district where a public charter school is located shall transfer the public charter school's portion of the local school district's funding calculated pursuant to KRS 157.360. The public charter school's portion shall be allocated in the same manner as the school allocation model used by the local school district based on applicable data provided by the public charter school. A report detailing the formula used for public charter schools and the local school district's non-charter schools shall be transmitted to the Kentucky Board of Education, the Secretary of the Education and Workforce Development Cabinet, the Legislative Research Commission, and the authorizer within 30 days of its adoption by the local school board, after which the Kentucky Board of Education may find the formula used by the local school district for public charter schools deficient and request a revision thereof within 90 days.*

The following funds shall not be included in the funds allocated to the public charter school:

1. *Local capital outlay funds that are restricted in use pursuant to KRS 157.420(4), 157.440(1)(b), and 157.621; or other financing mechanisms for new construction and renovation projects for school facilities;*

2. *Local funds raised pursuant to KRS 157.440(2)(a);*

3. *Transportation funds calculated pursuant to KRS 157.360(2)(c), as outlined in paragraph (d) of this subsection; and*

4. *Three percent of the total funding allocated in paragraph (c) of this subsection, which shall be retained by the authorizer if the authorizer is a local school district or transferred to the authorizer if the authorizer is not a local school district. If the Kentucky Board of Education approves a public charter school on appeal from another authorizer, the Kentucky Board of Education shall receive 25 percent of any authorizer fee during the period of the charter;*

(d) *If a local school district provides transportation to students attending a public charter school under terms agreed upon by the local school district and the public charter school in the charter contract, the local school district shall not be required to transfer the transportation funds described in paragraph (c)3. of this subsection. If a local school district does not provide transportation to students attending a public charter school, the transportation funds described in paragraph (c)3. of this subsection shall be transferred to the public charter school. The amount of funds transferred shall be calculated by multiplying the total amount of transportation funds the local school district receives pursuant to KRS 157.360(2)(c) by a fraction, the numerator of which equals the number of students attending the public charter school who would otherwise be transported by the local school district, and the denominator of which equals the total number of students transported by the local school district;*

(e) *Public charter schools shall receive any education funds derived from occupational license fees on a proportionate per-pupil basis;*

(f) *Funding for a public charter school that is authorized by a collaborative of one or more local school districts shall be determined by the collaborative agreement. A copy of the collaborative agreement and the allocation formula used for each participating local school district's non-charter schools shall be transmitted to the Kentucky Board of Education, the Secretary of the Education and Workforce Development Cabinet, the Legislative Research Commission, and the authorizer within 30 days of its adoption by the local school board, after which the Kentucky Board of Education may find the funding plan contained in the collaborative agreement deficient and request a revision thereof within 90 days;*

(g) *A student enrolled in a public charter school that is a Regional Achievement Academy who resides outside the boundaries of the local school district where the Regional Achievement Academy is located but within the Regional Achievement Zone shall be included and reported in the local school district of residence's Superintendent's Annual Attendance Report and any other reports used for enrollment and attendance purposes required to be submitted to the Kentucky Department of Education. This data shall be used to calculate funding for the local school district of residence pursuant to KRS 157.360 and 157.440(1)(a);*

(h) *A local school district that is located within a Regional Achievement Zone shall transfer the public charter school's portion of the local school district's funding calculated pursuant to KRS 157.360. The public charter school's portion shall be allocated in the same manner as the school allocation model used by the local school district based on applicable data provided by the public charter school. A report detailing the formula used for public charter schools and the local school district's non-charter schools shall be transmitted to the Kentucky Board of Education, the Secretary of the Education and Workforce Development Cabinet, the Legislative Research Commission, and the authorizer within 30 days of its adoption by the local school board, after which the Kentucky Board of Education may find the formula used by the local school district for public charter schools deficient and request a revision thereof within 90 days.*

The following funds shall not be included in the funds allocated to the Regional Achievement Academy:

1. *Local capital outlay funds that are restricted in use pursuant to KRS 157.420(4), 157.440(1)(b), and 157.621, or other financing mechanisms for new construction and renovation projects for school facilities;*
2. *Local funds raised pursuant to KRS 157.440(2)(a);*
3. *Transportation funds calculated pursuant to KRS 157.360(2)(c), as outlined in paragraph (i) of this subsection; and*
4. *Three percent of the total funding allocated in paragraph (h) of this subsection, which shall be retained by the authorizer if the authorizer is a local school district, or transferred to the authorizer or authorizing collaborative and distributed to the participating local school districts in the collaborative as determined by the collaborative agreement if the authorizer is a collaborative of two or more local school districts, or transferred to the authorizer if the authorizer is not a local school district. If the Kentucky Board of Education approves a public charter school on appeal from another authorizer, the Kentucky Board of Education shall receive 25 percent of any authorizer fee during the period of the charter;*

(i) *Transportation for students in a public charter school located within a Regional Achievement Zone shall be provided as determined by the authorizing local school district or collaborative as determined by the collaborative agreement. If a local school district that is a participant in the authorizing collaborative provides transportation to students attending a public charter school in a Regional Achievement Zone under terms agreed upon by the local school district and the public charter school in the charter contract, the local school district shall not be required to transfer to the public charter school the transportation funds described in paragraph (h)3. of this subsection. If a local school district that is a participant in a collaborative does not provide transportation to students attending a public charter school, the transportation funds described in paragraph (h)3. of this subsection shall be transferred to the local school district providing the transportation, if applicable, or to the Regional Achievement Academy if no local school district provides transportation. The amount of funds transferred shall be calculated by multiplying the total amount of transportation funds the local school district receives pursuant to KRS 157.360(2)(c) by a fraction, the numerator of which equals the number of students attending the public charter school who would otherwise be transported by the local school district, and the denominator of which equals the total number of students transported by the local school district. If a local school district is not a participant in the collaborative authorizing the public charter school in a Regional Achievement Zone, the local school district shall not be required to transfer to the public charter school the transportation funds described in paragraph (h)3. of this subsection;*

(j) *Funds transferred for purposes of public charter schools shall be transferred throughout the school year according to a schedule to be determined by the Kentucky Board of Education. A failure to transfer required funds shall result in a fine to the entity required to transfer the funds of not less than five percent of the total funding per funding period for every five days late on funds transfers, which shall be transferred to the public charter school;*

(k) *Funds transferred pursuant to this subsection shall be transferred to:*

1. *The public charter school if the local school district is the authorizer;*

2. *The Regional Achievement Academy if a Regional Achievement Zone collaborative is the authorizer;*
or

3. *The authorizer if a local school district or Regional Achievement Zone collaborative is not the authorizer of the public charter school;*

(l) *The Kentucky Board of Education shall promulgate administrative regulations governing the transfer of funds between local school districts, authorizers, and public charter schools, and the imposition of fines for late funds transfers;*

(m) *A public charter school shall be eligible for federal and state competitive grants and shall not be excluded from an opportunity to participate as an independent educational entity as long as the available grants align with the grade levels included in the public charter school and the other criteria established for the respective grants;*

(n) *A public charter school shall receive a proportionate share of moneys generated under federal and state categorical aid programs for students that are eligible for the aid and attending the public charter school. A local school district shall ensure that a public charter school with rapidly expanding enrollment is treated equitably in the calculation and disbursement of all federal and state categorical aid program funding. Each public charter school that receives such aid shall comply with all reporting requirements to receive such aid; and*

(o) *The Commissioner of Education shall apply for all federal funding that supports charter school initiatives for which a state must be the applicant and shall cooperate with a public charter school in its efforts to seek federal funding.*

(21) *Public Charter School Employees: For fiscal year 2017-2018:*

(a) 1. *Public charter school employees shall participate in the Teachers' Retirement System or the County Employees Retirement System, as determined by their eligibility for participation in the appropriate system and provided the public charter school satisfies the criteria set by the Internal Revenue Service to participate in a governmental retirement plan;*

2. *Teachers and other certified personnel shall make any required employee contributions to the Teachers' Retirement System under KRS 161.220 to 161.716;*

3. *Classified employees who are members of the County Employees Retirement System shall make any required employee contributions to the County Employees Retirement System under KRS 78.510 to 78.852; and*

4. *A public charter school shall make any required employer contributions to the Teachers' Retirement System under KRS 161.220 to 161.716 and the County Employees Retirement System under KRS 78.510 to 78.852 in the same manner and level as local school districts;*

(b) *A public charter school employee shall not be required to be a member of any collective bargaining agreement;*

(c) *A public charter school shall participate in the Kentucky Employees Health Plan on the same basis as a local school district;*

(d) *Any state appropriation for retirement, health, or life insurance benefits made on behalf of a local public school employee shall also be made on behalf of a public charter school employee;*

(e) *A local school board shall not require any employee of the local school district to be employed in a public charter school or any student enrolled in the local school district to attend a public charter school;*

(f) *A local school board shall not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any local school district employee involved directly or indirectly with an application to establish a public charter school; and*

(g) *For the purposes of calculating sick leave credit under KRS 161.220 to 161.716, teachers and other certified personnel shall not accumulate more days of sick leave during their employment with a public charter school than they would have otherwise accumulated as a certified employee of the local school district in which the public charter school is located.*

➔Section 3. 2016 Kentucky Acts Chapter 149, Part I, Operating Budget; C. Department of Education; 3. Learning and Results Services; (20) Use of Local District Capital Funds, at page 1064, is amended to read as follows:

(20) **Use of Local District Capital Funds:** Notwithstanding KRS 157.420(4) and (6), 157.440, and 157.621, a local board of education may submit a request to the Commissioner of Education to utilize any capital funds,

regardless of the source, for general operating expenses in fiscal year 2016-2017 without forfeiting the district's eligibility to participate in the School Facilities Construction Commission Program. Prior to August 1, 2016, the Kentucky Board of Education shall approve guidelines to be followed in considering such requests from local boards of education *for fiscal year 2016-2017. Notwithstanding KRS 157.420(4) and (6), 157.440, and 157.621, a local board of education may submit a request to the Commissioner of Education to utilize any capital funds, regardless of the source, for general operating expenses in fiscal year 2017-2018 without forfeiting the district's eligibility to participate in the School Facilities Construction Commission Program, except that the Commissioner of Education shall not approve any capital funds request that exceeds 50% of a local board of education's current trailing three-year average. Prior to August 1, 2017, the Kentucky Board of Education shall approve guidelines to be followed in considering such requests from local boards of education for fiscal year 2017-2018.* ~~Prior to December 15, 2016, the Kentucky Board of Education shall approve a recommendation to the General Assembly on the local school district use of capital funds in fiscal year 2017-2018, which shall be provided to the Interim Joint Committee on Appropriations and Revenue.]~~

➔Section 4. 2016 Kentucky Acts Chapter 149, Part I, Operating Budget; E. Energy and Environment Cabinet; 1. Secretary, at page 1067, is amended to read as follows:

1. SECRETARY

| | 2016-17 | 2017-18 |
|------------------|-----------|-----------|
| General Fund | 3,029,300 | 3,059,400 |
| Restricted Funds | 2,021,000 | 1,967,900 |
| Federal Funds | 810,900 | 856,300 |
| TOTAL | 5,861,200 | 5,883,600 |

(1) **Administrative Support:** Notwithstanding KRS 224.60-130, 224.60-140, and 224.60-145, the Secretary may use Restricted Funds to support the Environmental Quality Commission. The use of these funds shall not exceed \$225,100 in fiscal year 2016-2017 and \$233,600 in fiscal year 2017-2018.

(2) **Volkswagen Mitigation Trust Agreement:** *All funds received from the environmental mitigation trust established by Volkswagen pursuant to the partial consent decree shall be held in a trust and agency account. These funds shall not be expended or appropriated without the express authority of the General Assembly.*

➔Section 5. There is hereby appropriated to the Council on Postsecondary Education supplemental General Fund moneys in the amount of \$298,000 in fiscal year 2017-2018 to fully fund 164 veterinary medicine and 44 optometry slots in the Contract Spaces Program.

➔Section 6. 2016 Kentucky Acts Chapter 149, Part II, Capital Projects Budget; J. Postsecondary Education; 8. University of Kentucky, at page 1122, is amended by inserting the following after project 192.:

193. Lease - Warren County - College of Medicine 1

➔Section 7. 2016 Kentucky Acts Chapter 149, Part II, Capital Projects Budget; J. Postsecondary Education; 9. University of Louisville, at page 1124, is amended by inserting the following after project 055.:

056. Jefferson County - Student Housing 1 – Lease

➔Section 8. Whereas the provisions of this Act provide ongoing support for programs funded in the 2016-2018 executive branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Vetoed portion became law when veto overridden March 29, 2017; remainder became law March 28, 2017, with no signature.

CHAPTER 153

(HB 540)

AN ACT relating to aviation safety.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

- (1) *A commercial airport may prepare an unmanned aircraft facility map. In preparing the map, a commercial airport shall consult with the Federal Aviation Administration air traffic control tower at the airport,*
- (2) *Any unmanned aircraft facility map developed by a commercial airport shall be filed with the secretary of the airport board and shall be prominently displayed on the airport's Web site.*
- (3) *An unmanned aircraft facility map shall not extend beyond the approach surface areas specifically described in 14 C.F.R. sec. 77.19(d), and as published in the official airport master plan record.*
- (4) *If the Federal Aviation Administration creates and makes available a map for the commercial airport that restricts the areas where it is unsafe to operate an unmanned aircraft in the areas described in 14 C.F.R. sec. 77.19(d), that map shall be the unmanned aircraft facility map of the commercial airport.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

- (1) *An operator of an unmanned aircraft or a direct supervisor of an operator of an unmanned aircraft, if that direct supervisor holds a remote pilot certificate under 14 C.F.R. Part 107, shall not operate or allow an unmanned aircraft to operate:*
 - (a) *In a manner that allows an incursion of an unmanned aircraft into areas prohibited for the operation, taking off, and landing of an unmanned aircraft as designated by a commercial airport's unmanned aircraft facility map, except with the approval of the commercial airport operator; or*
 - (b) *In a reckless manner so as to create a risk of serious physical injury to another or a risk of damage to property.*
- (2) *The provisions of this section shall not apply to an operator of an unmanned aircraft for a commercial purpose in compliance with Federal Aviation Administration regulations, authorizations, or exemptions.*

➔Section 3. KRS 183.011 is amended to read as follows:

- (1) "Aeronautics" means the science and art of flight and including, but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto;
- (2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air;
- (3) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state;
- (4) "Air navigation facility" means any facility other than one owned or controlled by the United States, used in, available for use in, or designed for use in, aid of air navigation, including airports, rights, interests, or easements in the navigable air space, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instruments or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities;
- (5) "Airport" means any area, of land or water, which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport building or other airport facilities, and all appurtenant rights-of-way, whether theretofore or hereinafter established;
- (6) "Airport board," "airboard," or "board" means a board established as provided in this chapter and any airport board or airboard created pursuant to the provisions of KRS Chapter 183 as it existed prior to the enactment of 1960 Ky. Acts ch. 179 shall be deemed to have been established pursuant to this chapter with all of the powers, functions, and duties as herein prescribed;
- (7) "Airport facilities" includes land, buildings, equipment, runways, and other improvements and appurtenances necessary for the establishment and maintenance of airports;

- (8) "Airport hazard" means any structure, object, or natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off;
- (9) "Certificate" means a certificate issued by the cabinet;
- (10) "Civil aircraft" means any aircraft other than a public aircraft;
- (11) "Charter operator" means all persons who transport or seek to transport persons or property in intrastate commerce for hire on unscheduled service and not between fixed points;
- (12) ***"Commercial airport" means an airport certified by the Federal Aviation Administration in accordance with 14 C.F.R. Part 139;***
- (13) "Common carrier" shall include all carriers for hire or compensation by air who operate, or seek to operate, over fixed routes or between fixed termini within the Commonwealth of Kentucky;
- ~~(14)~~~~(13)~~ "Commuter air carrier" means a common carrier of persons or property in intrastate commerce for hire or compensation by air, operating under federal aviation regulation (FAR) Part 135 or other appropriate parts or regulations and who operates or seeks to operate on regular schedules with multi-engine aircraft between two (2) or more fixed airport termini or over fixed routes only within the Commonwealth of Kentucky and publishes flight schedules which specify the times, days of week, and places between which such flights are performed;
- ~~(15)~~~~(14)~~ "Development" and "airport development" mean:
- (a) Any work involved in planning, designing, constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport buildings and the removal, lowering, relocation, and marking and lighting of airport hazards; and
- (b) Any acquisition of land, or any interest therein, or of any easement through or other interest in air space which is necessary to permit any required work or to remove, mitigate, prevent, or limit the establishment of airport hazards and expenses incident to the carrying out of the provisions of this chapter;
- ~~(16)~~~~(15)~~ "Navigable air space" means air space above the minimum altitudes of flight prescribed by the regulations of the Federal Aviation Administration or cabinet consistent therewith, and includes the air space necessary for normal landing or take off of aircraft;
- ~~(17)~~~~(16)~~ ***"Operate," as pertains to an unmanned aircraft, means the actions taken by an operator of an unmanned aircraft. "Operate" refers only to the actions of an operator on the ground and is not intended to regulate an unmanned aircraft flying in navigable airspace;***
- (18) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the air space over this state, or upon any airport within this state. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control as owner, lessee, or otherwise of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state;
- (19) ***"Operator" means a person operating or flying an unmanned aircraft;***
- ~~(20)~~~~(17)~~ "Overhead line" means any cable, pipeline, wire, or similar substance of any kind or description;
- ~~(21)~~~~(18)~~ "Permit" means a permit issued by the cabinet;
- ~~(22)~~~~(19)~~ "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes;
- ~~(23)~~~~(20)~~ "Public airport" means any airport which is used or to be used for public purposes under the control of a public agency, the landing area of which is publicly owned;
- ~~(24)~~~~(21)~~ "Public use airport" means any airport in the state airport plan open for use by the general public, not including a private airport used primarily for the benefit of the owner;
- ~~(25)~~~~(22)~~ "State airport plan" means the plan of the cabinet for the development of public and certain private airports for the benefit of the people of this state;

- (26)~~(23)~~ "State airway" means a route in the navigable air space over the lands or waters of this state, designated by the cabinet as a route suitable for air navigation;
- (27)~~(24)~~ "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead transmission lines;~~and~~
- (28)~~(25)~~ "Tree" includes objects of natural growth;
- (29) *"Unmanned aircraft" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft; and*
- (30) *"Unmanned aircraft facility map" means a map that may be developed by a commercial airport to display the airport facility's airspace overlaid with latitude and longitude rectangular gridlines, or any other commercially available system, that reflects the areas where it is unsafe to operate an unmanned aircraft without authorization by the commercial airport operator on property owned by a commercial airport and in specific areas consistent with obstructions to navigation under 14 C.F.R. Part 77.*

➔Section 4. KRS 183.990 is amended to read as follows:

- (1) Any person violating any of the provisions of this chapter with respect to operation of aircraft, or violating the provisions of any rule, regulation, or ordinance adopted under KRS 183.133(6), shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or imprisoned not more than ninety (90) days or both.
- (2) Each violation of the statutes pertaining to the state airport zoning commission or of any order, rule, or regulation promulgated pursuant thereto shall be punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisonment for not more than thirty (30) days or both and each day a violation continues to exist shall constitute a separate offense.
- (3) Any person who violates the provisions of KRS 183.886 shall be fined not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.
- (4) Any person who violates the provisions of KRS 183.887(2) *or Section 2 of this Act* shall be guilty of:
 - (a) A Class A misdemeanor; or
 - (b) A Class D felony, if the violation causes a significant change of course or a serious disruption to the safe travel of the aircraft that threatens the physical safety of the passengers and crew of the aircraft.

Vetoed March 27, 2017; became law without Governor's signature when veto overridden March 29, 2017.

CHAPTER 154

(SB 91)

AN ACT relating to court-ordered outpatient mental health treatment and making an appropriation therefor.

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

➔Section 1. KRS 202A.261 is amended to read as follows:

No public or private hospital, other than a state-operated or contracted mental hospital or institution, shall be required to provide services under KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, *Sections 3 to 13 of this Act*, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 unless the hospital agrees to provide the services. Any hospital shall make every reasonable attempt to cooperate with the implementation of KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280.

➔Section 2. KRS 202A.271 is amended to read as follows:

Each public or private hospital, other than a state-operated or contracted mental hospital or institution, which provides services under KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, *Sections 3 to 13 of this Act*, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200,

387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 shall be paid for the services at the same rates the hospital negotiates with the Department for Behavioral Health, Developmental and Intellectual Disabilities or the regional community program for mental health and for individuals with an intellectual disability.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *Proceedings for court-ordered assisted outpatient treatment of a person shall be initiated by the filing of a verified petition for that purpose in District Court.*
- (2) *The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."*
- (3) *The petition shall be filed by a qualified mental health professional; peace officer; county attorney; Commonwealth's attorney; spouse, relative, friend, or guardian of the person concerning whom the petition is filed; or any other interested person.*
- (4) *The petition shall set forth:*
 - (a) *Petitioner's relationship to the respondent;*
 - (b) *Respondent's name, residence, and current location, if known;*
 - (c) *Petitioner's belief, including the factual basis therefor, that the respondent meets the criteria for court-ordered assisted outpatient treatment as set forth in Section 6 of this Act; and*
 - (d) *Whether, within five (5) days prior to the filing of the petition, the respondent has been examined by a qualified mental health professional to determine whether the respondent meets the criteria for court-ordered assisted outpatient treatment pursuant to Section 5 of this Act.*
- (5) *Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with the examination.*
- (6) *If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be court-ordered to assisted outpatient treatment, the court shall:*
 - (a) *Order the respondent to be examined without unnecessary delay by a qualified mental health professional to determine whether the respondent meets the criteria for court-ordered assisted outpatient treatment set forth in Section 5 of this Act, unless the court has already received the certified findings of such an examination conducted no earlier than five (5) days prior to the filing of the petition. The qualified mental health professional shall certify his or her findings within seventy-two (72) hours, excluding weekends and holidays; and*
 - (b) *Set a date for a hearing within six (6) days from the date of the examination under the provisions of this section, excluding weekends and holidays, to determine if the respondent should be court-ordered to assisted outpatient treatment.*
- (7) *If the court finds there is no probable cause to believe the respondent should be court-ordered to assisted outpatient treatment, the proceedings against the respondent shall be dismissed.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *The court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or site designated by the cabinet so that the respondent shall be examined without unnecessary delay by a qualified mental health professional. The sheriff or peace officer may authorize, upon agreement of a person authorized by the peace officer, the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or site designated by the cabinet.*
- (2)
 - (a) *When the court is authorized to issue an order that the respondent be transported to a hospital or site designated by the cabinet for examination, the court may issue a summons.*
 - (b) *A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place specified in the summons, where the respondent shall be examined by a qualified mental health professional.*

- (c) *If a respondent who has been summoned fails to appear for the examination, the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or site designated by the cabinet for the purpose of an examination.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

No person shall be court-ordered to assisted outpatient mental health treatment unless the person:

- (1) *Has been involuntarily hospitalized pursuant to KRS 202A.051(11) at least two (2) times in the past twelve (12) months;*
- (2) *Is diagnosed with a serious mental illness;*
- (3) *Is unlikely to adequately adhere to outpatient treatment on a voluntary basis based on a qualified mental health professional's:*
 - (a) *Clinical observation;*
 - (b) *Review of treatment history, including the person's prior history of repeated treatment nonadherence; and*
 - (c) *Identification of specific characteristics of the person's clinical condition described as anosognosia, or failure to recognize his or her diagnosis of serious mental illness; and*
- (4) *Is in need of court-ordered assisted outpatient treatment as the least restrictive alternative mode of treatment presently available and appropriate.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

No later than the date of the hearing held pursuant to Section 3 of this Act, the qualified mental health professional who examined the respondent pursuant to Section 3 of this Act shall provide to the court and the respondent a proposed written treatment plan for the respondent for court-ordered assisted outpatient treatment, which shall have the goal of recovery. In developing a treatment plan, a qualified mental health professional shall:

- (1) *Provide reasonable opportunities for the respondent to actively participate in the development of the treatment plan and any modifications thereafter, and involve any other persons whom the respondent requests to have participate;*
- (2) *Follow any advanced directive for mental health treatment executed by the respondent; and*
- (3) *Include in the treatment plan:*
 - (a) *A proactive crisis plan that includes access to emergency or crisis services twenty-four (24) hours a day and the contact information to access such crisis services; and*
 - (b) *Evidence-based practices. As used in this paragraph, "evidence-based practices" means intervention programs, policies, procedures, and practices that have been rigorously tested; are proven by scientific research; have yielded consistent, replicable results; and have proven safe, beneficial, and effective for most people diagnosed with mental illness when implemented competently. Evidence-based practices may include but are not limited to psychotropic medications, psychosocial rehabilitation, recovery-oriented therapies, assertive community treatment, supported employment, supported housing, and peer support services.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *At a hearing and at all stages of a proceeding for court-ordered assisted outpatient treatment, the respondent shall be:*
 - (a) *Represented by counsel;*
 - (b) *Accompanied by a peer support specialist or other person in a support relationship, if requested by the respondent; and*
 - (c) *Afforded an opportunity to present evidence, call witnesses on his or her behalf, and cross-examine adverse witnesses.*
- (2) *If a respondent does not appear at the hearing, and appropriate attempts to elicit the respondent's appearance have failed, the court may conduct the hearing in the respondent's absence.*

- (3) *A qualified mental health professional who recommends court-ordered assisted outpatient treatment for the respondent shall:*
 - (a) *Testify at the hearing, in person or via electronic means;*
 - (b) *State the facts and clinical determinations which support the allegation that the respondent meets the criteria stated in Section 5 of this Act; and*
 - (c) *Testify in support of the treatment plan provided pursuant to Section 6 of this Act, and for each category of proposed evidence-based treatment, he or she shall state the specific recommendation and the clinical basis for his or her belief that such treatment is essential to the maintenance of the respondent's health or safety.*
- (4) *If after hearing all relevant evidence, the court does not find by clear and convincing evidence that the respondent meets the criteria stated in Section 5 of this Act, the court shall deny the petition and the proceedings against the respondent shall be dismissed.*
- (5) *If after hearing all relevant evidence, the court finds by clear and convincing evidence that the respondent meets the criteria stated in Section 5 of this Act, the court may order the respondent to receive assisted outpatient treatment for a period of time not to exceed three hundred sixty (360) days. The court's order shall incorporate a treatment plan, which shall be limited in scope to the recommendations included in the treatment plan provided by the qualified mental health professional pursuant to Section 6 of this Act.*
- (6) *The court shall report every order for assisted outpatient treatment issued under this section to the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses established pursuant to KRS 210.502.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

If the court orders assisted outpatient mental health treatment pursuant to Section 7 of this Act, the court shall appoint an outpatient provider agency recognized by the cabinet which shall assemble a multi-disciplinary team. The multi-disciplinary team shall regularly monitor the person's adherence to the conditions of the order and regularly report this information to the court that ordered the person's release. Reports may be provided in written format, in person, or via electronic means, at the court's discretion.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

A person's substantial failure to comply with a court order for assisted outpatient treatment may constitute presumptive grounds for an authorized staff physician to order a seventy-two (72) hour emergency admission pursuant to KRS 202A.031. Failure to comply with an order for assisted outpatient treatment shall not be grounds to find the person in contempt of court.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *At any time during the period of an order for court-ordered assisted outpatient treatment, the person subject to the order may move the court to stay, vacate, or modify the order.*
- (2)
 - (a) *As used in this subsection, "material change" means an addition or deletion of a category of services to or from a treatment plan.*
 - (b) *If a treating qualified mental health professional proposes a material change to the court-ordered treatment plan, he or she shall apply to the court for approval of the proposed change. Not later than five (5) days after receiving the application, excluding weekends and holidays, the court shall hold a hearing. If the person under order informs the court that he or she agrees to the proposed material change, the court may approve such change without a hearing.*
- (3) *Within thirty (30) days of the expiration of an order for assisted outpatient treatment, the original petitioner may petition the court for an additional period of court-ordered assisted outpatient treatment. The procedures for the consideration of the petition shall be identical to the procedures provided in Sections 3 to 13 of this Act, except that the parties may mutually agree to waive the requirement of a new hearing. The person under order shall be represented by an attorney in responding to the petition for an additional period of court-ordered assisted outpatient treatment.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

For persons who are Medicaid-eligible, assisted outpatient mental health treatment services identified under Sections 3 to 13 of this Act shall be authorized by the Department for Medicaid Services and its contractors as

Medicaid-eligible services and shall be subject to the same medical necessity criteria and reimbursement methodology as for all other covered behavioral health services.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Implementation of Sections 3 to 13 of this Act is contingent upon adequate funding by any unit of state or local government or divisions thereof, special purpose governmental entity, or any other entity able to utilize funds for the purposes set forth in Sections 3 to 13 of this Act. Funding may be provided through the appropriation of federal, state, or local resources or from donations, grants, gifts, or pledges from private resources.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Sections 3 to 13 of this Act may be cited as Tim's Law.

Vetoed March 27, 2017; became law without Governor's signature when veto overridden March 29, 2017.

CHAPTER 155

(SJR 57)

A JOINT RESOLUTION designating honorary names for various roads and bridges and directing the placement of honorary roadside signs.

WHEREAS, Titus Elijah Morris was born on June 2, 1981, the cherished son of Jimmy and Sharon Morris; and

WHEREAS, Titus Elijah Morris was a Highway Equipment Operator IV with the Kentucky Transportation Cabinet. He had been employed with the Cabinet for 15 years; and

WHEREAS, Titus Elijah Morris tragically departed this earthly life on December 22, 2015, after being struck by a vehicle while performing his job in Allen County; and

WHEREAS, Titus Elijah Morris is deeply missed by his family, friends, and all those whose lives he touched with his graciousness and passion for life; and

WHEREAS, Titus Elijah Morris was preceded in death by his grandfather, Willard Taylor, and his nephew, Samuel Smith. He is survived by his parents; grandparents, Martha Taylor and Forrest and Martha Morris; sisters, Tiffany Westbrook and her husband, Roger, Tonya Bradford and her husband, Lenny, and Tabitha Smith and her husband, Joshua; brother, Trey Morris and his wife, Cary; and many nieces and nephews who miss his presence in their lives; and

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet is hereby directed to designate the bridge on United States Highway 31E in Allen County, at West Bays Fork Creek between United States Highway 231 and Kentucky Route 101, as the "Titus Elijah Morris Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 2. The Transportation Cabinet shall designate the bridge on United States Highway 119 near mile marker 35 in the City of Cumberland, as the "Reecie Stagnolia, Jr. Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 3. The Transportation Cabinet shall designate the bridge on Kentucky Route 2030 in Floyd County as the "Will Carroll Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 4. The Transportation Cabinet shall designate Kentucky Route 39 in Pulaski County, as the "Marshall Davenport Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 5. Within 30 days of the effective date of this Resolution, the Transportation Cabinet shall erect permanent signs on United States Route 68 entering Barren County that denote Barren County as the birthplace of two recipients of the Medal of Honor, Sergeant William L. Day, and Corporal Richard E. Bush.

➔Section 6. The Transportation Cabinet is hereby directed to designate Kentucky Route 122 in Floyd County, from mile-point 25.965 to mile-point 27.479, as the "Debbie Ann Ferguson Hall Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 7. The Transportation Cabinet shall honor the accomplishments of Keith Whitley by including him on the Country Music Highway on United States Route 23 along the Lawrence County line, and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 8. The Transportation Cabinet shall designate Kentucky Route 3414 on the Left Fork of Long Fork from Petty's Fork to Sycamore Branch in Pike County as the "Walker "Hayes" Bentley Memorial Highway, Casualty of World War II," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 9. The Transportation Cabinet shall designate the bridge on Kentucky Route 3414 in Pike County, near Petty's Fork on the Left Fork of Long Fork, as the:

"Pvt. Clyde Bentley Memorial Bridge

Casualty of WWII"

and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 10. The Transportation Cabinet shall add an indication on the signs naming the "Clarence Edward Tackett" and "Billy Wayne Bridgeman" bridges in Virgie, Kentucky, to indicate their status as casualties of the Vietnam War and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 11. The Transportation Cabinet shall designate a portion of United States Highway 610 in Pike County as the "Cpl. Don "Donnie Mac" McClelland Justice Memorial Highway, Casualty of Vietnam War," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 12. The Transportation Cabinet shall honor the accomplishments of Don Rigsby by including him on the Country Music Highway on United States Route 23 in Lawrence County, and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 13. The Transportation Cabinet shall designate United States Highway 460 in Franklin County, from mile-point 0.0 to mile-point 1.2, as the "Reverend Wallace Kent Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 14. The Transportation Cabinet shall designate United States Highway 29 in Jessamine County, from Lowry Lane to Handy's Bend Road, as the "Bobby L. Dunaway Memorial Highway," and shall within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 15. The Transportation Cabinet shall designate Kentucky Route 33 in Mercer County, from the city limits of Burgin to its intersection with Kentucky Route 68, as the "Lance Corporal Donald Deloy Hanson, USMC, Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 16. The Transportation Cabinet shall designate United States Highway 127 in Mercer County, from mile-point 0.0 to mile-point 4.4, as the "Mercer County Vietnam Veterans Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 17. The Transportation Cabinet shall designate the bridge on Kentucky Route 80 in Leslie County near Kentucky Route 1807, as the "Corporal Gordon Jones Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 18. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs on Kentucky Route 163 southbound, at the intersection with Commerce Drive, and on Kentucky Route 100 northbound, 300 yards north of the Old Gamaliel Road Intersection, that read "Home of the Monroe County Lady Falcons, 2017 All-A Girls' Basketball State Champions." The signs erected under this section shall remain in place for at least one year from their date of placement.

➔Section 19. The Transportation Cabinet is hereby directed to place signs in Letcher County on United States Highway 23 at the Pike County/Letcher County line and on Kentucky Route 15 on the Knott County/Letcher County line, that read "Home of Dr. Van Breeding, 2017 National Country Doctor of the Year," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 20. The Transportation Cabinet is hereby directed to place a sign on the Interstate 264 overpass over Northwestern Parkway in Jefferson County that reads "Judge Benjamin Shobe Memorial Overpass," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 21. The Transportation Cabinet shall designate the bridge on Kentucky Route 80 over the East Fork of the Little Barren River (Bridge Number 085B0006N) in Metcalfe County as the "Kinnaird-Bell Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 22. The Transportation Cabinet shall designate Kentucky Route 1482 in Clay County, from the Clay/Leslie County line to its intersection with Kentucky Route 484, as the "Amon Couch Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 23. The Transportation Cabinet shall designate United States Highway 421 in Leslie County, from mile point 10.7 to mile point 13.1, as the "Hughes and Sallie Morgan Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 24. The Transportation Cabinet shall designate the overpass on Interstate 75 over United States Highway 42 in Boone County, as the "Jack Reno Memorial Overpass," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 25. The Transportation Cabinet is directed to honor Keva McFerrin by placing signs on United States Highway 25E, at the Knox County/Bell County line and the Laurel County/Knox County line that read, "Home of Keva McFerrin 2016 AmeriFest National Miss Toddler U.S.," The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 26. The Transportation Cabinet shall designate the United States Highway 68 Bypass in Christian County, from the intersection with Kentucky Route 107 to the intersection with United States Highway 41A, as the "Corporal Windell J. Simmons Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 27. The Transportation Cabinet shall designate the bridge on United States Route 23 over the Little Sandy River in the city of Greenup as the "Greenup County Korean War Veterans Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. Signs erected under this section shall include the phrase "The Forgotten War."

➔Section 28. The Transportation Cabinet shall designate the section of Kentucky Route 63 in Monroe County, from mile point 6.7 to mile point 6.9, as the "Sam Hagan Curve," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 29. The Transportation Cabinet is hereby directed to designate Kentucky Route 36 from the intersection of United States Highway 127N in Owen County to the intersection of Kentucky Route 22E in Grant County as the "Chase Duvall Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 30. The Transportation Cabinet is directed to honor Nick Mills by placing signs on United States Highway 25E, at the Knox County/Bell County line and the Laurel County/Knox County line that read, "Home of

Nick Mills, 2017 Grand National American Coon Hunting Champion." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 31. The Transportation Cabinet is hereby directed to honor Roby Mullins by erecting signs on United States Route 27 at the Lincoln County/Garrard County line and the Lincoln County/Pulaski County line that read "Home of Roby Mullins, 2016 NASP 3D Outdoor World Archery Champion." The signs shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of their placement.

➔Section 32. The Transportation Cabinet shall designate the portion of Kentucky Route 9000, the Mountain Parkway in Clark County, between Kentucky Route 974 and the Powell County Line, as the "Verne G. Orndorff Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 33. The Transportation Cabinet shall designate the bridge on United States Highway 421 in Harlan County, near mile point 12.8 as the "PFC Kenneth Ward Harris Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 34. The Transportation Cabinet is hereby directed to honor William Blake by erecting signs on Kentucky Route 160 in Harlan County at the city limits of Cumberland that read "Home of World War II Veteran William Blake," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage. The signs shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of their placement.

➔Section 35. The Transportation Cabinet is directed to place honorary signs on United States Highway 23 entering Johnson County that read "Home of the Johnson Central High School Golden Eagles, 2016 KHSAA Class 4A Football Champions" within 30 days of the effective date of this Resolution. The signs erected under this section shall remain in place for a minimum of one year.

➔Section 36. The Transportation Cabinet shall designate Kentucky Route 9 in Mason County, from United States Highway 68 to Kentucky Route 10, as the "Mason County Vietnam Veterans Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage denoting this designation.

➔Section 37. The Transportation Cabinet shall designate the bridge on United States Highway 62, on the Tennessee River on the border of Livingston and Marshall Counties, as the "George A. 'Tony' Ellis Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 38. The Transportation Cabinet shall erect signs near the intersection of Kentucky Route 122 and Kentucky Route 979 in Floyd County that read "Hi Hat, Home of 3-time Basketball All-American Jimmy Rose" within 30 days of the effective date of this Resolution. The signs erected under this section shall remain in place for a minimum of one year.

➔Section 39. The Transportation Cabinet shall designate the bridge on Kentucky Route 52, over the Kentucky River in the city of Irvine, as the "Captain Zachary Chase Clevenger Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 40. The Transportation Cabinet shall erect signs on Kentucky Route 1544, in Ohio County, at the city limits of Rosine, that read "Rosine, Home of SP5 Ronald Bryan, Recipient of the Distinguished Flying Cross," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage. The signs erected under this section shall remain in place for a minimum of one year.

➔Section 41. The Transportation Cabinet shall designate Kentucky Route 764, in Daviess County, at Whitesville, as the "PFC William O. Mills Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 42. The Transportation Cabinet shall designate Kentucky Route 313 within Meade County, from the Hardin County line to the city of Brandenburg, as the "Sergeant James A. Sherrill Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. This designation shall supersede any previous designations established for this section of highway.

➔Section 43. The Transportation Cabinet shall designate the bridge on United States Highway 421 South, in Harlan County, past mile marker 10, as the "PFC Arthur Speegle Jr. Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 44. The Transportation Cabinet shall designate the bridge on United States Highway 421 South, in Harlan County, at mile marker 10, the "Corporal George 'Hobie' Noe Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 45. The Transportation Cabinet is hereby directed to honor Sarah Mills by placing signs in Bullitt County, on Kentucky Route 44 in front of Eastside Middle School and on Kentucky Route 44 near its intersection with Interstate 65, that read "Home of Sarah Mills, 2017 Kentucky Middle School Teacher of the Year." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 46. The Transportation Cabinet is hereby directed to honor the Bullitt East High School Cheer Team by placing signs in front of Bullitt East High School on Kentucky Route 44 and on Kentucky Route 44 at its intersection with Bardstown Road that read "Home of Bullitt East High School Cheer Team/2017 KHSAA State Champions." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 47. The Transportation Cabinet shall erect honorary signs on Kentucky Route 2831 between 17th Street and 20th Street in Owensboro that read "Owensboro High School, Home of 2-Time State Champion Basketball Coach and Hall of Fame Member Bobby Watson." The signs erected under this section shall remain in place for at least one year from the date the signs were erected.

➔Section 48. The Transportation Cabinet shall designate the portion of Kentucky Route 536 in Kenton County as the "Biz Cain Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage at the Kenton County/Boone County line and the Kenton County/Campbell County line.

➔Section 49. The Transportation Cabinet is hereby directed to place signs on each end of United States Highway 68X in Logan County that read "Logan County, Celebrating 225 Years of History 1792-2017." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 50. The Transportation Cabinet shall designate the following sections of roadway as the "Copperhead Trail," and shall, within 30 days of the effective date of this Resolution, erect signage denoting this designation:

1. From mile point 9.859 of Kentucky Route 92 in Whitley County to its intersection with Kentucky Route 296;
2. From mile point 0.0 of Kentucky Route 296 in Whitley County to its intersection with Kentucky Route 204;
3. From mile point 0.0 of Kentucky Route 204 in Whitley County to its intersection with Kentucky Route 478;
4. From mile point 7.705 of Kentucky Route 478 in Whitley County to the Whitley County/McCreary County line;
5. From the McCreary County/Whitley County line on Kentucky Route 478 to its intersection with United States Highway 27 in McCreary County;
6. From mile point 9.093 of United States Highway 27 in McCreary County to its intersection with Kentucky Route 700;
7. From Kentucky Route 700 in McCreary County to its intersection with Kentucky Route 90 in McCreary County;
8. From mile point 9.51 on Kentucky Route 90 to the Whitley County/McCreary County line;
9. From mile point 0.0 on Kentucky Route 90 in Whitley County to its intersection with Kentucky Route 90S;
10. From mile point 0.0 on Kentucky 90S in Whitley County to its intersection with United States Highway 25W;
11. From mile point 21.94 on United States Highway 25W in Whitley County to its intersection with Kentucky Route 296;
12. From mile point 2.075 on Kentucky Route 296 in Whitley County to its intersection with Kentucky Route 2386;

13. From mile point 0.776 on Kentucky Route 2386 in Whitley County to its intersection with Kentucky Route 92; and

14. From mile point 10.736 on Kentucky Route 92 in Whitley County to mile point 9.85 on Kentucky Route 92 in Whitley County.

➔Section 51. The Transportation Cabinet is hereby directed to honor Olivia Prewitt by erecting signs on United States Route 150 in front of Constitution Square and on Kentucky Route 2324 in front of Danville High School, that read "Home of Olivia Prewitt, 2017 Miss Kentucky Teen USA." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 52. The Transportation Cabinet is hereby directed to honor Danny Taylor by erecting signs on Kentucky Route 15 entering Letcher County from each direction that read "Home of Danny Taylor, 2016 Inductee, Lincoln Memorial Athletic Hall of Fame." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 53. The Transportation Cabinet is hereby directed to honor the Hopkinsville High School Band by erecting signs on the Edward Breathitt Parkway entering Christian County from each direction that read "Home of the Hopkinsville High School Band, 2016 Kentucky Music Educators Association AAAA State Champions." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 54. The Transportation Cabinet shall add the following names to the sign erected for the "Jessamine County Fallen Heroes Highway" established by 2016 Ky. Acts ch. 96, sec. 25: Cecil Allen Fain, William Paul Ketron, John Everette Mackey, Charles "Chuck" Morgan, Jr., Joseph Scott Northup, Sr., Burke Jevon Rhoads, Billy Ray Walls, and William Michael Wheeler.

Vetoed March 27, 2017; became law without Governor's signature when veto overridden March 29, 2017.

CHAPTER 156

(SB 1)

AN ACT relating to public education and declaring an emergency.

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

➔Section 1. KRS 156.557 is amended to read as follows:

(1) As used in this section:

(a) "Formative evaluation" means a continuous cycle of collecting evaluation information and providing feedback with suggestions regarding the certified employee's professional growth and performance; *and*

~~[(b) "Local formative growth measures" means measures that are rigorous and comparable across schools in a local district;~~

~~(c) "Student growth" means the change in student achievement for an individual student between two (2) or more points in time including achievement on state assessments required per KRS 158.6453; and]~~

~~(b) [(d)]~~ "Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data that:

1. Occur at the end of an evaluation cycle; and

2. Include a conference between the evaluator and the evaluated certified employee and a written evaluation report.

(2) ~~[(Prior to the beginning of the 2014-2015 school year,)]~~ The Kentucky Department of Education, in consultation with the Kentucky teacher and principal steering committees and other groups deemed appropriate by the commissioner of education, shall develop a *statewide* framework *for teaching that* ~~for a statewide personnel evaluation system. The Kentucky Board of Education shall promulgate administrative regulations to establish a statewide professional growth and effectiveness system for the purposes of supporting and improving the~~

~~performance of all certified school personnel. The system~~ shall promote the continuous professional growth and development of skills needed to be a highly effective teacher or a highly effective administrator in a school or district. ~~[The Kentucky Board of Education shall include parent surveys as a source of data once a valid and reliable survey tool becomes available for this purpose.]~~

- (3) ***Each district shall develop and implement a personnel evaluation system aligned with the statewide framework for teaching established in subsection (2) of this section that shall***~~[The professional growth and effectiveness system shall]~~:
 - (a) Use multiple measures of effectiveness~~[, including student growth data as a significant factor in determining the effectiveness of teachers and administrators, that utilize both state standardized tests and local formative growth measures that are rigorous and comparable across schools in a local district]~~;
 - (b) Include both formative and summative evaluation components;
 - (c) Measure professional effectiveness;
 - (d) Support professional growth;
 - (e) Have at least ***four (4)***~~[three (3)]~~ performance levels;
 - (f) Be used to inform personnel decisions;
 - (g) Be considerate of the time requirements of evaluators at the local level and shall not require that all certified school personnel have a formal summative evaluation each year; and
 - (h) Rate teachers or administrators by multiple measures instead of a single measure.
- (4) The performance criteria by which teachers and administrators shall be evaluated shall include but not be limited to:
 - (a) Performance of professional responsibilities related to his or her assignment, including attendance and punctuality and evaluating results;
 - (b) Demonstration of effective planning of curricula, classroom instruction, and classroom management, based on research-based instructional practices, or school management skills based on validated managerial practices;
 - (c) Demonstration of knowledge and understanding of subject matter content or administrative functions and effective leadership techniques;
 - (d) Promotion and incorporation of instructional strategies or management techniques that are fair and respect diversity and individual differences;
 - (e) Demonstration of effective interpersonal, communication, and collaboration skills among peers, students, parents, and others;
 - (f) Performance of duties consistent with the goals for Kentucky students and mission of the school, the local community, laws, and administrative regulations;
 - (g) Demonstration of the effective use of resources, including technology;
 - (h) Demonstration of professional growth;
 - (i) Adherence to the professional code of ethics; and
 - (j) Attainment of the teacher standards or the administrator standards as established by the Education Professional Standards Board that are not referenced in paragraphs (a) to (i) of this subsection.
- (5) The following provisions shall apply to ***each school district's personnel evaluation***~~[the statewide professional growth and effectiveness]~~ system:
 - (a) Certified school personnel, below the level of superintendent, shall be evaluated~~[by using the system developed by the Kentucky Department of Education]~~;
 - (b) The evaluation system shall include formative evaluation and summative evaluation components; and
 - (c) The Kentucky Board of Education shall adopt administrative regulations incorporating written guidelines for a local school district to follow in implementing the ***personnel evaluation***~~[professional growth and effectiveness]~~ system and shall require the following:

1. All evaluations of certified school personnel below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;
 2. The immediate supervisor of the certified school personnel member shall be designated as the primary evaluator. At the request of a teacher, observations by other teachers trained in the teacher's content area or curriculum content specialists may be incorporated into the formative process for evaluating teachers;
 3. All monitoring or observation of performance of a certified school personnel member shall be conducted openly and with full knowledge of the personnel member;
 4. Evaluators shall be trained, tested, and approved in accordance with administrative regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school personnel. Evaluators shall receive support and resources necessary to ensure consistent and reliable ratings;
 5. The *personnel evaluation*~~[professional growth and effectiveness]~~ system shall include a plan whereby the person evaluated is given assistance for professional growth as a teacher or administrator. The system shall also specify the processes to be used when corrective actions are necessary in relation to the performance of one's assignment;~~[and]~~
 6. *The system shall require annual summative evaluations for each teacher or other professional who has not attained continuing service status under KRS 161.740 or continuing status under KRS 156.800(7). The system shall require summative evaluations at least once every three (3) years for a teacher or other professional who has attained continuing service status under KRS 161.740 or continuing status under KRS 156.800(7), principals, assistant principals, and other certified administrators; and*
 - 7.~~[6.]~~ The training requirement for evaluators contained in subparagraph 4. of this paragraph shall not apply to district board of education members.
- (6) (a) Each superintendent shall be evaluated according to a policy and procedures developed by the local board of education and approved by the department.
 - (b) The summative evaluation of the superintendent shall be in writing, discussed and adopted in an open meeting of the board and reflected in the minutes, and made available to the public upon request.
 - (c) Any preliminary discussions relating to the evaluation of the superintendent by the board or between the board and the superintendent prior to the summative evaluation shall be conducted in closed session.
 - (7) ~~[Local districts may submit a written request to use an alternative effectiveness and evaluation system to the Kentucky Board of Education. The Kentucky Board of Education shall consider and approve a local district's use of an alternative effectiveness and evaluation system instead of the statewide system only if the Kentucky Board of Education determines the alternative system:~~
 - ~~(a) Is as rigorous, reliable, valid, and educationally sound as the statewide professional growth and effectiveness system;~~
 - ~~(b) Uses multiple measures of effectiveness, including student growth data as a significant factor in determining the effectiveness of teachers and administrators, that utilize both state standardized tests and local formative growth measures that are rigorous and comparable across schools in a local district;~~
 - ~~(c) Includes both formative and summative evaluation components;~~
 - ~~(d) Measures professional effectiveness;~~
 - ~~(e) Supports professional growth;~~
 - ~~(f) Has at least three (3) performance levels;~~
 - ~~(g) Is used to inform personnel decisions;~~
 - ~~(h) Is considerate of the time requirements of evaluators at the local level and does not require that all certified school personnel have a formal summative evaluation each year; and~~
 - ~~(i) Rates teachers and administrators by multiple measures instead of a single measure.~~

- ~~(8)~~—]The Kentucky Board of Education shall establish an appeals procedure for certified school personnel who believe that the local school district failed to properly implement the evaluation system. The appeals procedure shall not involve requests from individual certified school personnel members for review of the judgmental conclusions of their personnel evaluations.
- ~~(8)~~~~(9)~~ The local board of education shall establish an evaluation appeals panel for certified school personnel that shall consist of two (2) members elected by the certified employees of the local district and one (1) member appointed by the board of education who is a certified employee of the local board of education. Certified school personnel who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation.
- ~~(9)~~~~(10)~~ The Kentucky Department of Education *may*~~shall~~ annually provide for on-site visits by trained personnel~~to a minimum of fifteen (15) school districts~~ to review and ensure appropriate implementation of the evaluation system by the local school district. The department shall provide technical assistance to local districts to eliminate deficiencies and to improve the effectiveness of the evaluation system~~. The department may implement the requirement in this subsection in conjunction with other requirements, including, but not limited to, the scholastic audit process required by KRS 158.6455.~~
- ~~(10)~~~~(11)~~ The disclosure, pursuant to KRS Chapter 61, of any data or information, including student growth data, that local school districts or the Department of Education collect on individual classroom teachers under *this section*~~the requirements of KRS 156.557~~ is prohibited.
- (11) *The results of evaluations conducted under this section shall not be included in the accountability system described in Section 4 of this Act and no reporting requirements related to these results shall be imposed upon the local school districts by the Department of Education.***

➔Section 2. KRS 158.305 is amended to read as follows:

- (1) As used in this section:
- (a) "Aphasia" means a condition characterized by either partial or total loss of the ability to communicate verbally or through written words. A person with aphasia may have difficulty speaking, reading, writing, recognizing the names of objects, or understanding what other people have said. The condition may be temporary or permanent and does not include speech problems caused by loss of muscle control;
 - (b) "Dyscalculia" means the inability to understand the meaning of numbers, the basic operations of addition and subtraction, the complex operations of multiplication and division, or to apply math principles to solve practical or abstract problems;
 - (c) "Dysgraphia" means difficulty in automatically remembering and mastering the sequence of muscle motor movements needed to accurately write letters or numbers;
 - (d) "Dyslexia" means a language processing disorder that is neurological in origin, impedes a person's ability to read, write, and spell, and is characterized by difficulties with accuracy or fluency in word recognition and by poor spelling and decoding abilities;
 - (e) "Phonemic awareness" means the ability to recognize that a spoken word consists of a sequence of individual sounds and the ability to manipulate individual sounds in speaking; and
 - (f) "Scientifically based research" has the same meaning as in 20 U.S.C. sec. 7801(37).
- (2) Notwithstanding any other statute or administrative regulation to the contrary, the Kentucky Board of Education shall promulgate administrative regulations for district-wide use of a response-to-intervention system for students in kindergarten through grade three (3), that includes a tiered continuum of interventions with varying levels of intensity and duration and which connects general, compensatory, and special education programs to provide interventions implemented with fidelity to scientifically based research and matched to individual student strengths and needs. At a minimum, evidence of implementation shall be submitted by the district to the department for:
- (a) Reading and writing by August 1, 2013;
 - (b) Mathematics by August 1, 2014; and
 - (c) Behavior by August 1, 2015.

- (3) The Department of Education shall ~~provide~~~~[make available]~~ technical assistance and training, *if requested by a local district*, to assist ~~[all local school districts]~~ in the implementation of the district-wide, response-to-intervention system as a means to identify and assist any student experiencing difficulty in reading, writing, mathematics, or behavior *and to determine appropriate instructional modifications needed by advanced learners to make continuous progress.*
- (4) The technical assistance and training shall be designed to improve:
 - (a) The use of specific screening processes and programs to identify student strengths and needs;
 - (b) The use of screening data for designing instructional interventions;
 - (c) The use of multisensory instructional strategies and other interventions validated for effectiveness by scientifically based research;
 - (d) Progress monitoring of student performance; and
 - (e) Accelerated, intensive, direct instruction that addresses students' individual differences, *including advanced learners*, and enables *students that are experiencing difficulty*~~[them]~~ to catch up with typically performing peers.
- (5) The department shall develop and maintain a Web-based resource providing teachers access to:
 - (a) Information on the use of specific screening processes and programs to identify student strengths and needs, *including those for advanced learners*~~;~~~~and~~
 - (b) Current, scientifically based research and age-appropriate instructional tools that may be used for substantial, steady improvement in:
 1. Reading when a student is experiencing difficulty with phonemic awareness, phonics, vocabulary, fluency, general reading comprehension, or reading in specific content areas, or is exhibiting characteristics of dyslexia, aphasia, or other reading difficulties;
 2. Writing when a student is experiencing difficulty with consistently producing letters or numbers with accuracy or is exhibiting characteristics of dysgraphia;
 3. Mathematics when a student is experiencing difficulty with basic math facts, calculations, or application through problem solving, or is exhibiting characteristics of dyscalculia or other mathematical difficulties; or
 4. Behavior when a student is exhibiting behaviors that interfere with his or her learning or the learning of other students; *and*
 - (c) *Current, scientifically based research and age-appropriate instructional tools that may be used for continuous progress of advanced learners.*
- (6) The department shall encourage districts to utilize both state and federal funds as appropriate to implement a district-wide system of interventions.
- (7) The department is encouraged to coordinate technical assistance and training on current best practice interventions with state postsecondary education institutions.
- (8) The department shall collaborate with the Kentucky Collaborative Center for Literacy Development, the Kentucky Center for Mathematics, the Kentucky Center for Instructional Discipline, the Education Professional Standards Board, the Council on Postsecondary Education, postsecondary teacher education programs, and other agencies and organizations as deemed appropriate to ensure that teachers are prepared to utilize scientifically based interventions in reading, writing, mathematics, and behavior.
- (9) In compliance with 20 U.S.C. sec. 1414(a)(1)(E), screening of a student to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services and nothing in this section shall limit a school district from completing an initial evaluation of a student suspected of having a disability.
- (10) By November 30, 2013, and annually thereafter, the department shall provide a report to the Interim Joint Committee on Education that includes:
 - (a) Data on the number of school districts implementing response-to-intervention systems and scientifically based research practices in reading, writing, mathematics, and behavior;

- (b) Information on the types of scientifically based research interventions implemented; and
- (c) Data on the effectiveness of interventions in improving student performance in Kentucky schools.

➔Section 3. KRS 158.6453 is amended to read as follows:

(1) As used in this section:

- (a) "Accelerated learning" means an organized way of helping students meet individual academic goals by providing direct instruction to eliminate student performance deficiencies or enable students to move more quickly through course requirements and pursue higher level skill development;
- (b) "Constructed-response items" or "performance-based items" means individual test items that require the student to create an answer rather than select a response and may include fill-in-the-blank, short-answer, extended-answer, open-response, and writing-on-demand formats;
- (c) "Criterion-referenced test" means a test that is aligned with defined academic content standards and measures an individual student's level of performance against the standards;
- (d) "End-of-course examination" means the same as defined in KRS 158.860;
- (e) "Formative assessment" means a process used by teachers and students during instruction to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes. Formative assessments may include the use of commercial assessments, classroom observations, teacher-designed classroom tests and assessments, and other processes and assignments to gain information about individual student learning;
- (f) "Interim assessments" means assessments that are given periodically throughout the year to provide diagnostic information and to show individual student performance against content standards;
- (g) ~~["National norm referenced test" means a type of test interpretation in which the performance of student scores are reported by comparing performance to how other students in a national sample performed;~~
- ~~(h) "Program audit" means a form of program review that is a systematic method of analyzing components of an instructional program, and areas for improvement that is conducted as a result of a program review that indicates a more in-depth process of analysis and assistance is needed;~~
- ~~(i) "Program review" means a systematic method of analyzing components of an instructional program, including instructional practices, aligned and enacted curriculum, student work samples, formative and summative assessments, professional development and support services, and administrative support and monitoring;~~
- ~~(j) "Summative assessment" means an assessment given at the end of the school year, semester, or other period of time to evaluate students' performance against content standards within a unit of instruction or a course; and~~
- ~~(h)(4e)~~ "Writing" means a purposeful act of thinking and expression that uses language to explore ideas and communicate meaning to others. Writing is a complex, multifaceted act of communication.

(2) (a) ***Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a process for reviewing Kentucky's academic standards and the alignment of corresponding assessments for possible revision or replacement to ensure alignment with postsecondary readiness standards necessary for global competitiveness and with state career and technical education standards.***

(b) ***The revisions to the content standards shall:***

1. ***Focus on critical knowledge, skills, and capacities needed for success in the global economy;***
2. ***Result in fewer but more in-depth standards to facilitate mastery learning;***
3. ***Communicate expectations more clearly and concisely to teachers, parents, students, and citizens;***
4. ***Be based on evidence-based research;***
5. ***Consider international benchmarks; and***
6. ***Ensure that the standards are aligned from elementary to high school to postsecondary education so that students can be successful at each education level.***

- (c)
 - 1. *The department shall establish four (4) standards and assessments review and development committees, with each committee composed of a minimum of six (6) Kentucky public school teachers and a minimum of two (2) representatives from Kentucky institutions of higher education, including at least one (1) representative from a public institution of higher education. Each committee member shall teach in the subject area that his or her committee is assigned to review and have no prior or current affiliation with a curriculum or assessment resources vendor.*
 - 2. *One (1) of the four (4) committees shall be assigned to focus on the review of language arts and writing academic standards and assessments, one (1) on the review of mathematics academic standards and assessments, one (1) on the review of science academic standards and assessments, and one (1) on the review of social studies academic standards and assessments.*
- (d)
 - 1. *The department shall establish twelve (12) advisory panels to advise and assist each of the four (4) standards and assessments review and development committees.*
 - 2. *Three (3) advisory panels shall be assigned to each standards and assessments review and development committee. One (1) panel shall review the standards and assessments for kindergarten through grade five (5), one (1) shall review the standards and assessments for grades six (6) through eight (8), and one (1) shall review the standards and assessments for grades nine (9) through twelve (12).*
 - 3. *Each advisory panel shall be composed of at least one (1) representative from a Kentucky institution of higher education and a minimum of six (6) Kentucky public school teachers who teach in the grade level and subject reviewed by the advisory panel to which they are assigned and have no prior or current affiliation with a curriculum or assessment resources vendor.*
- (e) *The commissioner of education and the president of the Council on Postsecondary Education shall also provide consultants for the standards and assessments review and development committees and the advisory panels who are business and industry professionals actively engaged in career fields that depend on the various content areas.*
- (f)
 - 1. *The standards and assessments process review committee is hereby established and shall be composed of ten (10) members, including:*
 - a. *Three (3) members appointed by the Governor;*
 - b. *Three (3) members of the Senate appointed by the President of the Senate;*
 - c. *Three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and*
 - d. *The commissioner of education.*
 - 2. *The review of the committee shall be limited to the procedural aspects of the review process undertaken prior to its consideration.*
- (g)
 - 1. *The review process implemented under this subsection shall be an open, transparent process that allows all Kentuckians an opportunity to participate. The department shall ensure the public's assistance in reviewing and suggesting changes to the standards and alignment adjustments to corresponding state assessments by establishing a Web site dedicated to collecting comments by the public and educators. An independent third party, which has no prior or current affiliation with a curriculum or assessment resources vendor, shall be selected by the department to collect and transmit the comments to the department for dissemination to the appropriate advisory panel for review and consideration.*
 - 2. *Each advisory panel shall review the standards and assessments for its assigned subject matter and grade level and the suggestions made by the public and educators. After completing its review, each advisory panel shall make recommendations for changes to the standards and alignment adjustments for assessments to the appropriate standards and assessments review and development committee.*
 - 3. *Each standards and assessments review and development committee shall review the findings and make recommendations to revise or replace existing standards and to adjust alignment of assessments to the standards and assessments process review committee.*

4. *The recommendations shall be published on the Web site established in this subsection for the purpose of gathering additional feedback from the public. The commissioner, on behalf of the standards and assessments process review committee, shall subsequently present the recommendations and the public feedback to the Interim Joint Committee on Education.*
 5. *The commissioner shall subsequently provide a report to the standards and assessments process review committee summarizing the process conducted under this subsection and the resulting recommendations. The report shall include but not be limited to the timeline of the review process, public feedback, and responses from the Interim Joint Committee on Education.*
 6. *After receiving the commissioner's report, the standards and assessments process review committee shall either concur that stakeholders have had adequate opportunity to provide input on standards and the corresponding alignment of state assessments or find the input process deficient. If the process is found deficient, the recommendations may be returned to the appropriate standards and assessments review and development committee for review as described in subparagraph 3. of this paragraph. If the process is found sufficient, the recommendations shall be forwarded without amendment to the Kentucky Board of Education.*
- (h) *The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the review process, including staggering the timing and sequence of the review process by subject area and remuneration of the review and development committees and advisory panels described in paragraphs (c) and (d) of this subsection.*~~[Within thirty (30) days of March 25, 2009, the Kentucky Department of Education in collaboration with the Council on Postsecondary Education shall plan and implement a comprehensive process for revising the academic content standards in reading, language arts including writing, mathematics, science, social studies, arts and humanities, and practical living skills and career studies. The revision process shall include a graduated timetable to ensure that all revisions are completed to allow as much time as possible for teachers to adjust their instruction before new assessments are administered.~~
- ~~(b) The revisions to the content standards shall:~~
- ~~1. Focus on critical knowledge, skills, and capacities needed for success in the global economy;~~
 - ~~2. Result in fewer but more in depth standards to facilitate mastery learning;~~
 - ~~3. Communicate expectations more clearly and concisely to teachers, parents, students, and citizens;~~
 - ~~4. Be based on evidence based research;~~
 - ~~5. Consider international benchmarks; and~~
 - ~~6. Ensure that the standards are aligned from elementary to high school to postsecondary education so that students can be successful at each education level.~~
- ~~(c) The revision process, jointly organized by the commissioner of education and the president of the Council on Postsecondary Education, shall engage practicing teachers from elementary and secondary education in discussions and negotiations with content faculty and staff from postsecondary education institutions. The process shall also include business and industry professionals who are actively engaged in career fields that depend on the various content areas, and others as deemed appropriate by the commissioner and the president.~~
- ~~(d) During the revision process, the department shall consider standards that have been adopted by national content advisory groups and professional education consortia.~~
- ~~(e) Using a variety of strategies and technologies, the proposed revisions to the academic content standards shall be widely disseminated throughout the state to elementary, secondary, and postsecondary education faculty and administrators, parents, citizens, private professionals in the content areas, and others for comment and recommendations. The results of the revision process shall ensure that the specifications in paragraph (b) of this subsection are met.~~
- ~~(f) The commissioner of education and the president of the Council on Postsecondary Education shall ensure that the revised academic standards that are recommended to the Kentucky Board of Education~~

~~for approval are aligned with postsecondary education course and assessment standards for the gateway areas of reading and mathematics. The council shall also review the proposed academic standards in all other content areas and provide written recommendations as needed to ensure those areas are aligned with postsecondary education requirements.~~

(i)~~(g)~~ 1. The Kentucky Board of Education shall consider for approval the revisions to academic ~~content~~ standards for a content area ***and the alignment of the corresponding state assessment once recommendations are received from the standards and assessments process review committee. Existing state academic standards shall remain in place until the board approves new standards***~~[as they are completed].~~

2. ***Any revision to, or replacement of, the academic standards and assessments as a result of the review process conducted under this subsection shall be implemented in Kentucky public schools no later than the second academic year following the review process. Existing academic standards shall be used until new standards are implemented.***

3. The Department of Education shall disseminate the academic content standards to the schools and teacher preparation programs~~[no later than thirty (30) days after approval by the state board.~~

~~3. All academic content standards revisions shall be completed and approved by the state board no later than December 15, 2010, and disseminated by the Department of Education to elementary and secondary schools, postsecondary education faculty in the respective content areas, and to all teacher preparation programs no later than January 15, 2011].~~

(j)~~(h)~~ The Department of Education shall provide or facilitate statewide training sessions for existing teachers and administrators on how to:

1. Integrate the revised content standards into classroom instruction;
2. Better integrate performance assessment of students within their instructional practices; and
3. Help all students use higher-order thinking and communication skills.

(k)~~(i)~~ The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on Postsecondary Education shall coordinate information and training sessions for faculty and staff in all of the teacher preparation programs in the use of the revised academic content standards. The Education Professional Standards Board shall ensure that each teacher preparation program includes use of the academic standards in the pre-service education programs and that all teacher interns~~[after March 25, 2009,]~~ will have experience planning classroom instruction based on the revised standards.

(l)~~(j)~~ The Council on Postsecondary Education in cooperation with the Kentucky Department of Education and the postsecondary education institutions in the state shall coordinate information sessions regarding the academic content standards for faculty who teach in the various content areas.

(3) (a) The Kentucky Board of Education shall be responsible for creating and implementing a balanced statewide assessment program that measures the students', schools', and districts' achievement of the goals set forth in KRS 158.645 and 158.6451, to ensure compliance with the federal ***Every Student Succeeds Act of 2015, Pub. L. No. 114-95***~~[No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.]~~, or its successor, and to ensure school accountability.

(b) ***The board shall revise the annual statewide assessment program as needed in accordance with revised academic standards and corresponding assessment alignment adjustments approved by the board under***~~[Using the revised academic standards developed pursuant to]~~ subsection (2) of this section~~[, the board shall revise the annual statewide assessment program for implementation in the 2011-2012 academic year].~~

(c) ***The statewide assessments shall not include any academic standards not approved by the board under subsection (2) of this section.***

(d) The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; the Education Assessment and Accountability Review Subcommittee, and the National Technical Advisory Panel on Assessment and Accountability in the development of the assessment program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

- (4) (a) The *academic components of the statewide* assessment program~~[to be implemented in the 2011-2012 academic year]~~ shall be composed of annual student *summative tests, which may include a combination of multiple competency-based assessment and performance measures approved by the Kentucky Board of Education*~~[assessments and state and local program reviews and audits in selected content areas]~~.
- (b) The *annual student summative tests shall*~~[state student assessments may include formative and summative tests that]~~:
1. Measure individual student achievement in~~[the academic core content areas of]~~ language, reading, English, mathematics, science, and social studies at designated grades;
 2. Provide teachers and parents a valid and reliable comprehensive analysis of skills mastered by individual students;
 3. Provide diagnostic information that identifies strengths and academic deficiencies of individual students in the content areas;
 4. ~~[Provide comparisons with national norms for mathematics, reading, social studies, and science and, where available, comparisons to other states;~~
 5. ~~]~~Provide information to teachers that can enable them to improve instruction for current and future students;
 - 5.~~[6.]~~ Provide longitudinal profiles for students; and
 - 6.~~[7.]~~ Ensure school and district accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451, except the statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- ~~[(c) The state and local program reviews and audits shall provide annual feedback to each school relating to selected programs and serve as indicators of the quality of educational experiences available to students. Program reviews and audits shall provide recommendations for improving program components in order to better teach and assess students within these programs. Program reviews shall ensure school and district accountability for student achievement of the capacities set forth in KRS 158.645 and the goals set forth in KRS 158.6451.]~~
- (5) The state student assessments~~[to be implemented in the 2011-2012 academic year]~~ shall include the following components:
- (a) Elementary and middle grades requirements are:
1. A criterion-referenced test *each* in mathematics and reading in grades three (3) through eight (8) that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards~~[, augmented with a customized or commercially available norm-referenced test to provide national profiles]~~;
 2. A criterion-referenced test *each* in science and social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards~~[, augmented with a customized or commercially available norm-referenced test to provide national profiles]~~ to be administered one (1) time within the elementary and middle grades, respectively;
 3. An on-demand assessment of student writing to be administered one (1) time within the elementary grades and *one (1) time*~~[two (2) times]~~ within the middle grades; *and*
 4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the elementary and the middle grades, respectively~~;~~ *and*
 5. ~~A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8) as provided in subsection (11) of this section; except the readiness examination may be moved to grade nine (9) by the Kentucky Board of Education based on compelling evidence that moving the test would be in the best interests of Kentucky students];~~
- (b) High school requirements are:

1. A criterion-referenced test in mathematics, reading, and science that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards~~[that are not covered in the assessment under subparagraph 6. of this paragraph]~~ to be administered one (1) time within the high school grades;
 2. A criterion-referenced test in social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards~~;~~
~~augmented with a customized or commercially available norm referenced test to provide national profiles and]~~ to be administered one (1) time within the high school grades;
 3. An on-demand assessment of student writing to be administered *one (1) time*~~[two (2) times]~~ within the high school grades;
 4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the high school grades;
 - ~~[5. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10) as provided in subsection (11) of this section;]~~ and
 - 5.~~[6.]~~ A college admissions examination to assess English, reading, mathematics, and science in *the spring of grade ten (10) and the spring of grade eleven (11)*~~[as provided in subsection (11) of this section];~~
- (c) The Kentucky Board of Education shall add any other component necessary to comply with the *Every Student Succeeds Act of 2015, Pub. L. No. 114-95*~~[No Child Left Behind Act of 2001, 20 U.S.C. sees. 6301 et seq.]~~, or its successor, as determined by the United States Department of Education;
 - (d) The criterion-referenced components required in this subsection shall be composed of constructed response items and multiple choice items~~[and the national norm referenced components shall be composed of multiple choice items];~~
 - (e) The Kentucky Board of Education may incorporate end-of-course examinations into the assessment program to be used in lieu of requirements for criterion-referenced tests required under paragraph (b) of this subsection; and
 - (f) The results of the assessment program developed under this subsection shall be used *by schools and districts* to determine appropriate instructional modifications for all students in order for students to make continuous progress, including that needed by advanced learners.
- (6) ~~[Beginning in the 2011-2012 academic year,]~~Each school district shall administer the statewide student assessment during the last fourteen (14) days of school in the district's instructional calendar.~~[Testing shall be limited to no more than five (5) days.]~~ The Kentucky Board of Education *may change the testing window to allow for innovative assessment systems or other online test administration and* shall promulgate administrative regulations *that minimize the number of days of testing and outline*~~[outline]~~ the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.
 - (7) *A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by this section.*~~[Beginning in the 2011-2012 academic year, the Kentucky assessment program shall include program reviews and program audits for arts and humanities, practical living skills and career studies, and the writing programs. The results of the program reviews and audits of arts and humanities, practical living skills and career studies, and writing required under this subsection shall be included in the accountability system as required by KRS 158.6455.~~
- (a) ~~Arts and humanities.~~
 1. ~~The Kentucky Department of Education shall provide guidelines for arts and humanities programs and for integration of these within the curriculum to all schools.~~
 2. ~~The Kentucky Board of Education shall establish criteria to use in the program review and audit processes, and the procedures recommended for local district and department program reviews and program audits as defined in subsection (1)(h) and (i) of this section. The department shall distribute the criteria and procedures for program reviews and audits to all schools and teacher preparation programs.~~

- ~~3. Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.~~
 - ~~4. Each school based decision making council shall analyze the findings from program reviews for its school and determine how it will address program recommendations to improve the program for students.~~
- ~~(b) Practical living skills and career studies.~~
- ~~1. The Kentucky Department of Education shall provide guidelines for practical living skills and career studies and integration of these within the curriculum to all schools and teacher preparation programs.~~
 - ~~2. The Kentucky Board of Education shall establish criteria to use in the program review and audit processes, and the procedures recommended for local district and department program reviews and program audits as defined in subsection (1)(h) and (i) of this section. The department shall distribute the criteria and procedures for program reviews and audits to all schools and teacher preparation programs.~~
 - ~~3. Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.~~
 - ~~4. Each school based decision making council shall analyze the findings from programs reviews for its school and determine how it will address program recommendations to improve the program for students.~~
- ~~(c) Writing.~~
- ~~1. The Kentucky Department of Education shall provide guidelines for an effective writing program and establish criteria to use in the program review and program audit process as defined in subsection (1)(h) and (i) of this section. The department shall distribute the guidelines and criteria for program reviews within the curriculum to all schools and teacher preparation programs.~~
 - ~~2. Each school based decision making council or, if there is no school council, a committee appointed by the principal, shall adopt policies that determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.~~
 - ~~3. Writing portfolios, consisting of samples of individual student work that represent the interests and growth of the student over time, shall be a required part of any writing program in primary through grade twelve (12). Portfolios shall be part of the required criteria for the program review and audit process relating to the writing program under this paragraph. Individual student scores on portfolios shall not be included in the accountability system.~~
 - ~~4. A writing portfolio shall be maintained for each student and follow each student from grade to grade and to any school in which the student may enroll.~~
 - ~~5. A school's policies for the writing program shall address the use of the portfolio for determining a student's performance in:~~
 - ~~a. Communication;~~
 - ~~b. Grading procedures and feedback to students regarding their writing and communication skills;~~
 - ~~c. The responsibility for review of the portfolios and feedback to students; and~~
 - ~~d. Other policies to improve the quality of an individual student's writing and communications skills.~~

6. ~~Each local district shall do an annual program review and the Department of Education shall conduct a program review of every school's program within a two (2) year period. The frequency of program audits shall be determined by the Department of Education in compliance with the requirements established by the state board.~~
- ~~The Department of Education shall ensure that all schools and districts understand how the results of the program reviews and audits of arts and humanities, practical living skills and career studies, and writing are included in the accountability system under KRS 158.6455 and shall provide assistance to schools to improve the quality of the programs under this subsection.]~~
- (8) A local school *district*~~[districts]~~ may select and use commercial interim or formative assessments or develop and use *its*~~[their]~~ own formative assessments to provide data on how well *its*~~[their]~~ students are growing toward mastery of Kentucky academic *standards, so long as the district's local school board develops a policy minimizing the reduction in instructional time related to the administration of the interim assessments*~~[core content]~~. Nothing in this section precludes teachers from using ongoing teacher-developed formative processes.
- (9) ~~[Beginning with the 2010-2011 school year,]~~Each school that enrolls primary students shall use diagnostic assessments and prompts that measure readiness in reading and mathematics for its primary students as determined by the school to be developmentally appropriate. The schools may use commercial products, use products and procedures developed by the district, or develop their own diagnostic procedures. The results shall be used to inform the teachers and parents or guardians of each student's skill level.
- (10) ~~[In revising the state assessment program for implementation in 2011-2012 academic year,]~~The state board shall ensure that a technically sound longitudinal comparison of the assessment results for the same students shall be made available.
- (11) The following provisions shall apply to the *college admissions examinations described in subsection (5)(b)5. of this section*~~[assessment requirements for middle and high schools]~~:
- (a) ~~[The assessment program shall include:~~
1. ~~A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);~~
 2. ~~A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);~~
 3. ~~A college admissions examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and~~
 4. ~~Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;~~
- (b) ~~1. A student whose scores on the high school readiness examination administered in grade eight (8) or as determined by the Kentucky Board of Education under subsection (5) of this section indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and~~
2. ~~A student whose scores on the college readiness examination administered in grade ten (10) or the college admissions examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses;~~
- (c) ~~[The cost of both college admissions examinations~~~~[the initial college admissions examination]~~~~administered to students in high school~~~~[grade eleven (11)]~~ shall be paid for by the Kentucky Department of Education. The costs of additional college admissions examinations shall be the responsibility of the student;
- (b)~~[(d)]~~ If funds are available, the Kentucky Department of Education shall provide a college admissions examination preparation program to all public high school juniors. The department may contract for necessary services; and
- ~~[(e)] The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm referenced test under subsection (5)(a) and (b) of this section.~~

- (12) ~~Students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.~~
- (a) ~~The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education if funds are available for this purpose. The cost of additional WorkKeys assessments shall be the responsibility of the student.~~
- (b) ~~A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.~~
- (c) ~~A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.]~~
- (c)(13) Accommodations provided to a student with a disability taking the college admissions assessments under *this* subsection~~[(11)(a)3. of this section]~~ shall consist of:
- 1.~~[(a)]~~ Accommodations provided in a manner allowed by the college admissions assessment provider when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in *subparagraph 2. of this* paragraph~~[(b) of this subsection]; or~~
 - 2.~~[(b)]~~ Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under *subparagraph 1. of this* paragraph~~[(a) of this subsection]~~ when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- ~~[(14) The assessments under subsections (11) and (12) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."]~~
- (12)(15) Kentucky teachers shall have a significant role in the design of the assessments, *except for the college admissions exams described in subsection (5)(b)5. of this section.* The assessments shall be designed to:
- (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application~~[(The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year until the 2011-2012 academic year. The revised academic content standards developed as required by subsection (2) of this section shall be used in the revised assessment program for implementation in the 2011-2012 academic year as required by subsection (3) of this section. Any future revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools];~~
 - (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable;~~and]~~
 - (c) Minimize the time spent by teachers and students on assessment; *and*
 - (d) *Assess Kentucky academic standards only.*
- (13)(16) (a) ~~Through the fall of 2011, results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.~~
- (b) ~~Beginning in the fall of 2012,]~~The results from assessment under subsections (3) and (5) of this section shall be reported to the school districts and schools no later than seventy-five (75) days following the *last*~~first~~ day the assessment can be administered. *Assessment reports provided to the school districts and schools shall include an electronic copy of an operational subset of test items from each assessment administered to their students and the results for each of those test items by student and by school.*
- (14)(17) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for

all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(15)~~(18)~~ The Department of Education and the state board shall *offer optional assistance to*~~have the responsibility of assisting~~ local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(16)~~(19)~~ ~~[No later than sixty (60) days after March 25, 2009, the state board shall revise]~~The Administration Code for Kentucky's Assessment Program *shall*~~to~~ include prohibitions of inappropriate test preparation activities by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day. The *code*~~revisions~~ shall include disciplinary sanctions that may be taken toward a school or individuals.

(17)~~(20)~~ The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:

(a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and *information on electronic access to* a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:

1. Student academic achievement, including the results from each of the assessments administered under this section;
2. For Advanced Placement, *Cambridge Advanced International*, and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP examinations, *a score of "e" or better on Cambridge Advanced International examinations*, or a score of five (5) or better on IB examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status~~[. This data shall be included in the report card beginning with the 2009-2010 academic year];~~
3. Nonacademic achievement, including the school's attendance, retention, graduation rates, and student transition to *postsecondary*~~[adult life; and]~~
4. School learning environment, including measures of parental involvement; *and*
5. *Any other school performance data required by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;*

(b) An individual student report to parents for each student in grades three (3) through eight (8) summarizing the student's skills in reading, *science, social studies*, and mathematics. The school's staff shall develop a plan for accelerated learning for any student with identified deficiencies or strengths; *and*

(c) ~~[An individual report for each student who takes a high school or college readiness examination administered under subsection (11)(a) of this section that:~~

1. ~~Provides the student's test scores;~~
2. ~~Provides a judgment regarding whether or not a student has met, exceeded, or failed to meet the expectations for each standard assessed; and~~
3. ~~Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and~~

- (d) ~~—A student's *highest* scores on the college admissions[examination or WorkKeys] assessments administered under subsection (5)(b)5. of this section[subsections (11) and (12) of this section and the college admissions examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript].~~
- (18) (a) *Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards in visual and performing arts and practical living skills and career studies for all levels and in foreign language for middle and high schools. The department shall develop review committees for the standards for each of the content areas that include representation from certified specialist public school teachers and postsecondary teachers in those subject areas.*
- (b) *The department shall provide to all schools guidelines for programs that incorporate the adopted academic standards in visual and performing arts and practical living and career studies. The department shall provide to middle and high schools guidelines for including a foreign language program. The guidelines shall address program length and time, courses offered, staffing, resources, and facilities.*
- (c) *The Kentucky Department of Education, in consultation with certified public school teachers of visual and performing arts, may develop program standards for the visual and performing arts.*
- (19) *The Kentucky Department of Education shall provide to all schools guidelines for including an effective writing program within the curriculum. Each school-based decision making council or, if there is no school council, a committee appointed by the principal, shall adopt policies that determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.*
- (20) (a) *The Kentucky Department of Education, in consultation with the review committees described in subsection (18) of this section, shall develop a school profile report to be used by all schools to document how they will address the adopted academic standards in their implementation of the programs as described in subsection (18) of this section, which may include student opportunities and experiences in extracurricular activities.*
- (b) *By October 1 of each year, each school principal shall complete the school profile report, which shall be signed by the members of the school council, or the principal if no school council exists, and the superintendent. The report shall be electronically transmitted to the Kentucky Department of Education, and the original shall be maintained on file at the local board office and made available to the public upon request. The department shall include a link to each school's profile report on its Web site.*
- (c) *If a school staff member, student, or a student's parent has concerns regarding deficiencies in a school's implementation of the programs described in subsection (18) of this section, he or she may submit a written inquiry to the school council.*

~~[(21) The Kentucky Board of Education shall conduct periodic alignment studies that compare the norm referenced tests required under subsection (5) of this section with the standards in the different content areas to determine how well the norm referenced tests align and adequately measure the depth of knowledge and breadth of Kentucky's academic content standards. Based on its findings from the studies, the board may decrease the number of required criterion referenced items required under subsection (5) of this section.]~~

➔Section 4. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) (a) ~~[After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying successful schools. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.~~
- (b) ~~—The Kentucky Board of Education shall recognize schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). A student shall be included in the annual~~

average dropout rate if the student was enrolled in the school of record for at least thirty (30) days during the school year prior to the day he or she was recorded as dropping out of school. A student shall not be included in a school's annual average dropout rate if:

1. ~~The student is enrolled in a district operated or district contracted alternative program leading to a certificate of completion or a General Educational Development (GED) diploma; or~~
 2. ~~The student has withdrawn from school and is awarded a General Educational Development (GED) diploma by October 1 of the following school year.~~
- (c) ~~A student enrolled in a district operated or district contracted alternative program shall participate in the appropriate assessments required by the assessment program established in KRS 158.6453.~~
- (2) (a) ~~After the academic standards are revised and a new student assessment program is developed pursuant to KRS 158.6453,]The Kentucky Board of Education shall create an accountability system to classify districts and schools in accordance with the academic standards and student assessment program developed pursuant to Section 3 of this Act.~~
- (b) The accountability system shall include:
1. *An annual overall summative performance evaluation of each school and district compared to goals established by the Kentucky Department of Education. The evaluation for each school and district shall:*
 - a. *Not consist of a single summative numerical score that ranks schools against each other; and*
 - b. *Be based on a combination of academic and school quality indicators and measures, with greater weight assigned to the academic measures[The results of program assessments of arts and humanities, practical living skills and career studies, and writing programs];*
 2. Student assessment results;
 3. *Progress toward achieving English proficiency by limited English proficiency students;*
 4. *Quality of school climate and safety;*
 5. *High school graduation rates;*
 6. *Postsecondary readiness for each high school student, which shall be included as an academic indicator, and shall be measured by:*
 - a. *Meeting or exceeding a college readiness benchmark score on the college admissions examination used as the statewide assessment in subsection (5)(b)5. of Section 3 of this Act. The college readiness benchmark score shall be established by the Council on Postsecondary Education; or*
 - b. *Achievement of college credit, postsecondary articulated credit, apprenticeship time toward a credential or associate degree, or any industry-recognized certifications, licensures, or credentials, with more weight in accountability for industry-recognized certifications, licensures, or credentials identified as high demand in accordance with the process described in paragraph (c) of this subsection. Eligible industry-recognized certifications, licensures, or credentials shall not be limited to those earned in conjunction with a minimum sequence of courses. Each high school shall publicly report the credits, hours, and credentials on an annual basis; and*
 7. *Any other factor mandated by the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor.[School improvement results; and*
 4. ~~Other factors deemed appropriate by the board.]~~
- (c) *Based on data from the Kentucky Center for Education and Workforce Statistics, each local workforce investment board, in conjunction with local economic development organizations from its state regional sector, shall annually compile a list of industry-recognized certifications, licensures, and credentials specific to the state and regional workforce area, rank them by demand for the state and regional area, and provide the list to the Kentucky Workforce Innovation Board. The Kentucky Workforce Innovation Board, in conjunction with the Kentucky Department of Education, may*

revise the lists before the Kentucky Department of Education disseminates the lists to all school districts to be used as postsecondary readiness indicators~~[The board shall determine how student assessment and program assessment data from the 2011-2012 and 2012-2013 school years shall be used and reported within the new accountability system].~~

- (d) 1. *The Kentucky Department of Education shall pay for the cost of an assessment taken by a high school student for attaining an industry-recognized certification, credential, or licensure if the student consecutively completes at least two (2) related career pathway courses approved by the department prior to taking the assessment.*
- 2. *If a high school student has not completed the two (2) course requirement described in subparagraph 1. of this paragraph but meets performance-based experience eligibility and passes an assessment, the department shall provide a weighted reimbursement amount to the school district for the cost of the assessment based on the level of demand of the certificate, credential, or license earned. The Kentucky Board of Education shall promulgate regulations establishing the performance-based experience eligibility requirements and weighted reimbursement amounts.*
- (e) Prior to promulgating administrative regulations to revise the accountability system, the board shall seek advice from the School Curriculum, Assessment, and Accountability Council; the Office of Education Accountability; the Education Assessment and Accountability Review Subcommittee; and the National Technical Advisory Panel on Assessment and Accountability.

~~(2)(3)~~ A student's test scores shall be counted in the accountability measure of:

- (a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; or
- 2. The school in which the student was previously enrolled if the student was enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; and
- (b) The school district if the student is enrolled in the district for at least a full academic year as defined by the Kentucky Board of Education; and
- (c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.

~~(3)(4)~~ After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish *more rigorous action, intervention, and appropriate consequences for schools that fail to exit comprehensive support and improvement status described in Section 12 of this Act*~~[failing to meet their accountability measures]~~. The consequences shall be designed to improve the academic performance and learning environment of identified schools and may include but not be limited to:

- (a) A review and audit process~~[under subsection (5) of this section]~~ to determine the appropriateness of a school's or district's classification and to recommend needed assistance;
- (b) School and district improvement plans;
- (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
- (d) Education assistance from highly skilled certified staff~~[under KRS 158.782]~~; and
- (e) *Observation*~~[Evaluation]~~ of school personnel; and
- (f) ~~Student transfer to successful schools.~~

~~(5)~~ The Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting program reviews and audits.

~~(4)(6)~~ All students who drop out of school during a school year shall be included in a school's annual average school graduation rate calculation~~[, except as provided in subsection (1)(b) of this section].~~

~~(5)(7)~~ After receiving the advice of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the

National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a **three (3)**~~two (2)~~ year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when **one (1) or more schools in the district fail to exit comprehensive support and improvement status after three (3) consecutive years of implementing the turnaround intervention process described in Section 12 of this Act**~~the district fails to achieve its goals set by the board. The board shall revise the district accountability system based on the revised assessment program, including program and student assessments, to be implemented in the 2011-2012 school year as required in KRS 158.6453~~.

- ~~(6)(8)~~ After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the **three (3) year**~~biennial~~ assessment period which are beyond the control of the school.

➔Section 5. KRS 158.6458 is amended to read as follows:

The Department of Education shall develop a plan for implementing the state assessment and accountability system created under KRS 158.6453 and 158.6455 and shall report quarterly to the Interim Joint Committee on Education on its progress in the following areas:

- (1) Establishing a consistent structure of test components, grade-level testing distribution, and test administration procedures;
- (2) Beginning a new cycle of equating procedures for which their adequacy and precision can be tested rigorously and conducting appropriate equating analyses to accommodate the new accountability system;
- (3) Publishing more complete and informative guides for interpreting school accountability changes;
- (4) Reviewing school accountability classifications to assure their construct validity in all cases where they are applied;
- (5) ~~Maintaining and strengthening the assessment of schools' program reviews;~~
- ~~(6) —~~ Developing and implementing a validity research plan as required under KRS 158.6453;
- ~~(6)(7)~~ Establishing additional routine audits of key processes in the assessment and accountability program;
- ~~(7)(8)~~ Maintaining and cataloging a library of technical documents related to the assessment and accountability program for internal and external review purposes. In addition, the department shall produce an annual technical report for audiences that include educators, testing coordinators, parents, and legislators; and
- ~~(8)(9)~~ Maintaining a vigorous ongoing program of research and documentation of the effects of the assessment and accountability system on Kentucky schools.

➔Section 6. KRS 158.6459 is amended to read as follows:

- (1) ~~[A high school student whose scores on the high school readiness examination administered in grade eight (8), on the college readiness examination administered in grade ten (10), or on the WorkKeys indicate that additional assistance or advanced work is required in English, reading, or mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.]~~
- ~~(2) —~~ A high school student whose **highest** score on the college admissions examination under **subsection (5)(b)5. of Section 3 of this Act**~~[KRS 158.6453(11)(a)3.]~~ in English, reading, or mathematics is below the systemwide standard established by the Council on Postsecondary Education for entry into a credit-bearing course at a public postsecondary institution without placement in a remedial course or an entry-level course with supplementary academic support shall be provided the opportunity to participate in accelerated learning designed to address his or her identified academic deficiencies prior to high school graduation.

~~(2)(3)~~ A high school, in collaboration with its school district, shall develop and implement accelerated learning that:

- (a) Allows a student's learning plan to be individualized to meet the student's academic needs based on an assessment of test results and consultation among parents, teachers, and the student; and
- (b) May include changes in a student's class schedule.

~~(3)(4)~~ The Kentucky Department of Education, the Council on Postsecondary Education, and public postsecondary institutions shall offer support and technical assistance to schools and school districts in the development of accelerated learning.

~~[(5) A student who participates in accelerated learning under this section shall be permitted to take the college admissions examination a second time prior to high school graduation at the expense of the Kentucky Department of Education. The cost of any subsequent administrations of the achievement test shall be the responsibility of the student.]~~

➔Section 7. KRS 158.649 is amended to read as follows:

- (1) "Achievement gap" means a substantive performance difference on each of the tested areas by grade level of the state assessment program between the various *subgroups*~~[groups]~~ of students *as described in the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor*, including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are eligible for free and reduced lunch and those who are not eligible for free and reduced lunch.
- (2) By *October*~~[November]~~ 1 of each year, the Department of Education shall provide each school council, or the principal if a school council does not exist, data on its students' performance as shown by the state assessment program described in KRS 158.6453. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, English proficiency, and participation in the federal free and reduced price lunch program, *and any other subgroups as described in the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor*. The information from the department shall include an equity analysis that shall identify the substantive differences among the various groups of students identified in subsection (1) of this section. Beginning with the 2012-2013 school year, the reporting requirement in this subsection shall be no later than seventy-five (75) days following the first day the assessment can be administered.
- (3) Each local board of education upon the recommendation of the local district superintendent shall adopt a policy for reviewing the academic performance on the state assessments required under KRS 158.6453 for various groups of students, including major racial groups, gender, disability, free and reduced price school lunch eligibility, and limited English proficiency. The local board policy shall be consistent with Kentucky Board of Education administrative regulations. Upon agreement of the school-based decision making council, or the principal if there is not a council, and the superintendent, the local board shall establish *an annual*~~[a biennial]~~ target for each school for reducing identified gaps in achievement as set out in subsection (4) of this section.
- (4) By February 1 *of each year*~~[, 2003, and each February 1 in odd-numbered years thereafter]~~, the school-based decision making council, or the principal if there is not a council, with the involvement of parents, faculty, and staff shall set the school's~~[biennial]~~ targets for eliminating any achievement gap and submit them to the superintendent for consideration. The superintendent and the school-based decision making council, or the principal if there is not a council, shall agree on the~~[biennial]~~ targets before they are submitted to the local board of education for adoption.~~[Beginning with the 2012-2013 school year, the reporting requirement in this subsection shall be October 1 of each year.]~~
- (5) By *January 1 of each year*~~[April 1, 2003, and each April 1 in odd-numbered years thereafter]~~, the school council, or the principal if a school council does not exist, with the involvement of parents, faculty, and staff, shall review the data and revise the *school improvement*~~[consolidated]~~ plan to include the~~[biennial]~~ targets, strategies, activities, and a time schedule calculated to eliminate the achievement gap among various groups of students to the extent it may exist. The plan shall include but not be limited to activities designed to address the following areas:
 - (a) Curriculum alignment within the school and with schools that send or receive the school's students;
 - (b) Evaluation and assessment strategies to continuously monitor and modify instruction to meet student needs and support proficient student work;

- (c) Professional development to address the goals of the plan;
- (d) Parental communication and involvement;
- (e) Attendance improvement and dropout prevention; and
- (f) Technical assistance that will be accessed.

~~[Beginning with the 2012-2013 school year, the reporting requirement in this subsection shall be October 1 of each year.]~~

- (6) The principal shall convene a public meeting at the school to present and discuss the plan prior to submitting it to the superintendent and the local board of education for review, in the public meeting required under KRS 160.340.
- (7) Based on the disaggregated assessment results, the local board shall determine if each school achieved its targets for each group of students. Only data for a group of students including ten (10) or more students shall be considered.
- (8) Notwithstanding KRS 160.345(8) and 158.070(8), if a local board determines that a school has not met its target to reduce the identified gap in student achievement for a group of students, the local board shall require the council, or the principal if no council exists, to submit its revisions to the school improvement plan describing the use of professional development funds and funds allocated for continuing education to reduce the school's achievement gap for review and approval by the superintendent. The plan shall address how the school will meet the academic needs of the students in the various groups identified in subsection (1) of this section.
- (9) The superintendent shall report to the **local school board and the** commissioner of education if a school fails to meet its targets **in any academic content area** to reduce the gap in student achievement for any student group for two (2) consecutive years. The school's improvement plan shall be subject to review and approval by the Kentucky Department of Education and the school shall submit an annual status report. The Department of Education may provide assistance **as defined in Section 12 of this Act** to schools as it deems necessary to assist the school in meeting its goals.
- (10) The school-based decision making council, or the principal if there is not a council, shall no longer be required to seek approval of the plan under subsections (8) and (9) of this section when it meets its ~~biennial~~ target for reducing the gap in student achievement for the various groups of students identified in subsection (1) of this section.

➔Section 8. KRS 158.782 is amended to read as follows:

- (1) ***To align with the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, the Kentucky Department of Education shall promulgate administrative regulations establishing the monitoring and periodic review of the implementation of a local school district's turnaround plan for a school identified for comprehensive support and improvement described in Section 12 of this Act. The monitoring and review process shall be limited to performing an annual review of the school's state assessment data and measures of school quality, periodic site visits, observation, and interviews of representative stakeholders and students.*** ~~[After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to set forth the guidelines for providing highly skilled education assistance to schools and school districts. The program shall be designed to support improved teaching and learning and may include, but not be limited to, establishing the following:~~
 - ~~(a) Criteria for identifying successful strategies of assistance;~~
 - ~~(b) Policies and procedures for providing education assistance, which may include training, making assignments, employing certified personnel, and setting salaries that may include supplements; and~~
 - ~~(c) Duties of those providing education assistance, which may include personnel evaluation and recommendations concerning retention, dismissal, or transfer of personnel.]~~
- (2) ***Schools and districts receiving highly skilled assistance from the Kentucky Department of Education prior to the effective date of this Act shall continue to receive assistance in accordance with the established assistance plan*** ~~[A district employee selected to provide assistance shall be granted professional leave pursuant~~

~~to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. A certified employee shall not lose any employee benefits as a result of a special assignment.~~

- ~~(3) The Department of Education shall provide appropriate training for the persons selected to provide assistance that shall include but not be limited to training to strengthen the school based decision making process.~~
- ~~(4) The Kentucky Board of Education shall annually review the paperwork required of schools receiving highly skilled certified education assistance. It shall assure that paperwork requirements are kept to a minimum, relevant to the needs of the school, and are directly related to improving teaching and learning[.~~

➔Section 9. KRS 158.805 is amended to read as follows:

- (1) There is hereby created the Commonwealth school improvement fund to assist local schools in pursuing new and innovative strategies to meet the educational needs of the school's students and raise a school's performance level. The Kentucky Board of Education shall utilize the Commonwealth school improvement fund to provide grants to schools for the following purposes:
 - (a) To support teachers and administrators in the development of sound and innovative approaches to improve instruction or management, including better use of formative and summative, performance-based assessments;
 - (b) To assist in replicating successful programs developed in other districts including those calculated to reduce achievement gaps as defined in KRS 158.649;
 - (c) To encourage cooperative instructional or management approaches to specific school educational problems; and
 - (d) To encourage teachers and administrators to conduct experimental programs to test concepts and applications being advanced as solutions to specific educational problems.
- (2) The Kentucky Board of Education shall develop criteria for awards of grants from the Commonwealth school improvement fund to schools identified by the board as needing assistance under KRS 158.6455.
- (3) The Kentucky Board of Education shall have the sole authority to approve grants from the fund.
- (4) The Kentucky Board of Education may establish priorities for the use of the funds and, through the Department of Education, shall provide assistance to schools in preparing their grant proposals. The board shall require that no funds awarded under the Commonwealth school improvement fund are used to supplant funds from any other source. ***Requests may include funding for personnel costs, except funding for personnel costs shall not continue after school improvement funds are no longer provided.*** Requests for necessary equipment may be approved at the discretion of the state board, however the cost of equipment purchased by any grantee shall not exceed twenty percent (20%) of the total amount of money awarded for each proposal and shall be matched by local funds on a dollar for dollar basis.
- (5) The Kentucky Board of Education shall establish maximums for specific grant awards. All fund recipients shall provide the board with an accounting of all money received from the fund and shall report the results and conclusions of any funded projects to the Kentucky Board of Education. All fund recipients shall provide the board with adequate documentation of all projects to enable replication of successful projects in other areas of the state.

➔Section 10. KRS 158.840 is amended to read as follows:

- (1) The General Assembly hereby finds that reading and mathematics proficiency are gateway skills necessary for all Kentucky students to achieve the academic goals established in KRS 158.6451. It is the General Assembly's intent that:
 - (a) All students in the primary program having difficulty in reading and mathematics receive early diagnosis and intervention services from highly trained teachers;
 - (b) All students demonstrate proficiency in reading and mathematics as they progress through the relevant curricula and complete each assessment level required by the Kentucky Board of Education for the state assessment program established under KRS 158.6453 and in compliance with the requirements of the federal ***Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor***~~["No Child Left Behind Act of 2001," 20 U.S.C. sec. 6301 et seq.]~~; and

- (c) Students who are struggling in reading and mathematics or are not at the proficient level on statewide assessments be provided research-based and developmentally appropriate diagnostic and intervention services, and instructional modifications necessary to learn.

The General Assembly, the Kentucky Board of Education, the Kentucky Department of Education, the Council on Postsecondary Education, colleges and universities, local boards of education, school administrators, school councils, teachers, parents, and other educational entities, such as the Education Professional Standards Board, P-16 councils, the Collaborative Center for Literacy Development, and the Center for Middle School Achievement must collaborate if the intentions specified in this subsection are to be met. Intensive focus on student achievement in reading and mathematics does not negate the responsibility of any entity to help students obtain proficiency in other core curriculum content areas.

- (2) The General Assembly's role is to set policies that address the achievement levels of all students and provide resources for the professional growth of teachers and administrators, assessing students' academic achievement, including diagnostic assessment and instructional interventions, technology innovations, targeted reading and mathematics statewide initiatives, research and the distribution of research findings, services for students beyond the regular school day, and other services needed to help struggling learners.
- (3) The Kentucky Board of Education shall regularly review and modify, when appropriate, its statewide assessment policies and practices to enable local school districts and schools to carry out the provisions of the statewide assessment and accountability system, required under KRS 158.6453 to improve student achievement in mathematics and reading.
- (4) The Kentucky Department of Education shall:
 - (a) Provide assistance to schools and teachers, including publicizing professional development opportunities, methods of measuring effective professional development, the availability of high quality instructional materials, and developmentally appropriate screening and diagnostic assessments of student competency in mathematics and reading. The department shall provide access to samples of units of study, annotated student work, diagnostic instruments, and research findings, and give guidance on parental engagement;
 - (b) Work with state and national educators and subject-matter experts to identify student reading skills in each subject area that align with the state content standards adopted under KRS 158.6453 and identify teaching strategies in each subject area that can be used explicitly to develop the identified reading skills under this paragraph;
 - (c) Encourage the development of comprehensive middle and high school adolescent reading plans to be incorporated into the curricula of each subject area to improve the reading comprehension of all students;
 - (d) Conduct an annual review of the state grant programs it manages and make recommendations, when needed, to the Interim Joint Committee on Education for changes to statutory requirements that are necessary to gain a greater return on investment;~~and~~
 - (e) Provide administrative support and oversight to programs to train classroom coaches and mentors to help teachers with reading and mathematics instruction; **and**
 - (f) ***Require no reporting of instructional plans, formative assessment results, staff effectiveness processes, or interventions implemented in the classroom, except for:***
 - 1. ***Interventions implemented under subsection (2) of Section 2 of this Act;***
 - 2. ***Funds provided under KRS 158.792 or 158.844; or***
 - 3. ***Schools that are identified for comprehensive support and improvement and fail to exit comprehensive support and improvement status after three (3) consecutive years of implementing the turnaround intervention process as described in Section 12 of this Act.***
- (5) The Council on Postsecondary Education, in cooperation with the Education Professional Standards Board, shall exercise its duties and functions under KRS 164.020 to ensure that teacher education programs are fulfilling the needs of Kentucky for highly skilled teachers. The council shall coordinate the federal and state grant programs it administers with other statewide initiatives relating to improving student achievement in reading and mathematics to avoid duplication of effort and to make efficient use of resources.

- (6) The Education Professional Standards Board shall exercise its duties and responsibilities under KRS 161.030 and 161.048 to ensure highly qualified teachers.
- (7) Colleges and universities shall:
 - (a) Utilize institution-wide resources to work with elementary and secondary educators and other entities to align curriculum content to ensure that students who achieve proficiency on standards established at the prekindergarten through secondary levels will require no remediation to successfully enter a postsecondary education program;
 - (b) Provide quality undergraduate teacher preparation programs to ensure that those preparing to teach reading or mathematics at all grade levels have the necessary content knowledge, assessment and diagnostic skills, and teaching methodologies and that teachers in all subject areas have the requisite skills for helping students at all grade levels develop critical strategies and skills for reading and comprehending subject matter;
 - (c) Deliver appropriate continuing education for teachers in reading and mathematics through institutes, graduate level courses, and other professional development activities that support a statewide agenda for improving student achievement in reading and mathematics;
 - (d) Conduct or assist with research on best practices in assessment, intervention strategies, teaching methodologies, costs and effectiveness of instructional models, and other factors as appropriate to reading and mathematics;
 - (e) Provide staff to consult and provide technical assistance to teachers, staff, and administrators at elementary, middle, and secondary school sites;
 - (f) Assume active roles in the statewide initiatives referenced in KRS 156.553 and 158.842; and
 - (g) Develop written procedures for measuring the effectiveness of activities outlined in paragraphs (a) to (e) of this subsection.
- (8) School councils at all school levels are encouraged to identify and allocate resources to qualified teachers to become coaches or mentors in mathematics or coaches or mentors in reading with a focus on improving student achievement in their respective schools.
- (9) Local school boards and superintendents shall provide local resources, whenever possible, to supplement or match state and federal resources to support teachers, school administrators, and school councils in helping students achieve proficiency in reading and mathematics.
- (10) Local school superintendents shall provide leadership and resources to the principals of all schools to facilitate curriculum alignment, communications, and technical support among schools to ensure that students are academically prepared to move to the next level of schooling.

➔Section 11. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 - 1. Exclusively vocational-technical, special education, or preschool programs;
 - 2. Instructional programs operated in institutions or schools outside of the district; or
 - 3. Alternative schools designed to provide services to at-risk populations with unique needs;
 - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
 - (d) "Parent" means:
 - 1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
 - (b)
 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
 - (c)
 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
 - (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
 - (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) Personnel decisions at the school level shall be as follows:
 - 1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
 - 2.
 - a.
 - i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process.
 - ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
 - b. ~~If a school council is in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C, then~~ An alternative principal selection process may be used **by the school council** as follows:
 - i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;
 - ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;
 - iii. The council shall have the option to interview the recommended candidate while in closed session; and
 - iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;
 - c. If the recommended candidate is selected, and the recommended candidate accepts the offer, the name of the candidate shall be made public during the next meeting in open session;
 - d.
 - i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.

- ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).
 - iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.
 - iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school council by the Kentucky Board of Education under subsection (9)(e) of this section;
- 3. Personnel decisions made at the school level under the authority of subparagraphs 1. *and 2.* ~~1., 2., and 4.~~ of this paragraph shall be binding on the superintendent who completes the hiring process;
- 4. ~~{If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council;~~
- ~~5.~~ Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and
- ~~5.~~~~6.~~ Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 - 1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under *subsection (19) of Section 3 of this Act* ~~KRS 158.6453(7)~~;
 - 2. Assignment of all instructional and noninstructional staff time;
 - 3. Assignment of students to classes and programs within the school;
 - 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 - 5. Determination of use of school space during the school day *related to improving classroom teaching and learning*;
 - 6. Planning and resolution of issues regarding instructional practices;
 - 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 - 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 - 9. Adoption of an emergency plan as required in KRS 158.162;
 - 10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 - 11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

- (j) Each school council shall annually review data as shown on state and local student assessments~~[-and program assessments]~~ required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:
 - (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
 - (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
 - (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
 - (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By

November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
 - (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The

policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

- (12) Discretionary authority exercised under *subsection (2)(h)2.b. of this section* ~~[by a school council of a county school district in a county with a consolidated local government adopted under KRS Chapter 67C]~~ shall not violate provisions of any employer-employee bargained contract existing between the district and its employees.

➔Section 12. KRS 160.346 is amended to read as follows:

- (1) For purposes of this section:

- (a) *"Department" means the Kentucky Department of Education;*
- (b) *"ESSA" means the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;*
- (c) *"Level" means elementary, middle, or high school;*
- (d) *"Turnaround" means a comprehensive transformation of a school to achieve accelerated, meaningful, and sustainable increases in student achievement through improved school leadership and school district support;*
- (e) *"Turnaround plan" means a mandatory school plan that is designed to improve student learning and performance with evidence-based interventions as defined in ESSA and that is developed and implemented by the local school district in partnership with stakeholders, including the principal, other school leaders, teachers, and parents; and*
- (f) *"Turnaround team" means the turnaround training and support team selected by the local board of education as described in subsection (7)(a) of this section.* ~~["Persistently low achieving school" means:~~

~~1. For school years 2009-2010 and 2010-2011, based on averaging the percentage of proficient or higher in reading and mathematics on the state assessments under KRS 158.6455;~~

~~a. A Title I school in the group of Title I schools that contains a minimum of the lowest five (5) or the lowest five percent (5%), whichever is greater, of the Title I schools identified collectively in any school improvement category under the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, that have failed to make adequate yearly progress for three (3) consecutive years; or~~

~~b. A non Title I school in the group of non Title I schools that contains a minimum of the lowest five (5) or the lowest five percent (5%), whichever is greater, of the non Title I schools that contain grades seven (7) through twelve (12), or any combination thereof, and has at least thirty five percent (35%) or greater poverty as identified in the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, that have failed to make adequately yearly progress for three (3) consecutive years;~~

~~2. A high school whose graduation rate, based on the state's approved graduation rate calculation, has been sixty percent (60%) for three (3) or more consecutive years; or~~

~~3. Beginning with the state assessment results for the school year 2011-2012, a school that is in the lowest five percent (5%) of all schools that fail to meet the achievement targets of the state accountability system under KRS 158.6455 for at least three (3) or more consecutive years. For school years 2011-2012 and 2012-2013, the three (3) consecutive years shall be evaluated based on the status of the school under this subparagraph and subparagraph 1. of this paragraph; and~~

~~(b) "School intervention" means a process to turn around a persistently low achieving school that is chosen by a school council, a superintendent and a local board of education, or the commissioner of education, or the commissioner's designee with approval of the Kentucky Board of Education.]~~

- (2) (a) *Beginning with the 2018-2019 school year, or upon implementation of the provisions of ESSA by the department, whichever occurs first, the department shall identify a school for targeted support and improvement if the school has at least one (1) subgroup, as defined by ESSA, whose performance in the state accountability system by level is at or below the summative performance of all students, based on school performance, in any of the lowest-performing five percent (5%) of all schools.*
- (b) *Beginning with the 2019-2020 school year, or upon the second year of the implementation of the provisions of ESSA by the department, whichever occurs first, the department shall identify a school*

for targeted support and improvement if the school has at least one (1) subgroup, as defined by ESSA, whose performance in the state accountability system by level is at or below that of all students, based on school performance, in any of the lowest-performing ten percent (10%) of all schools for two (2) consecutive years.

- (3) *Beginning with the 2018-2019 school year, or upon the department's implementation of the provisions of ESSA, whichever occurs first, a school shall be identified by the department for comprehensive support and improvement if the school is:*
 - (a) *In the lowest-performing five percent (5%) of all schools in its level based on the school's performance in the state accountability system;*
 - (b) *A high school with a four (4) year cohort graduation rate that is less than eighty percent (80%); or*
 - (c) *Identified by the department for targeted support and improvement under subsection (2)(a) of this section and fails to exit targeted support and improvement status based on criteria established under subsection (9) of this section.*
- (4) *(a) When a school is identified for targeted support and improvement, the local school personnel, working with stakeholders, including the principal, other school leaders, teachers, and parents, shall revise its school improvement plan, which shall be subject to review and approval by the local board of education.*
 - (b) *Each revised plan shall be informed by all available indicators, including student performance compared to long-term goals, and shall include:*
 1. *Components of turnaround leadership development and support;*
 2. *Identification of critical resource inequities;*
 3. *Evidence-based interventions; and*
 4. *Additional actions that address the causes of consistently underperforming subgroups of students.*
 - (c) *If adequate performance progress, as defined by the department, is not made:*
 1. *By a school identified under subsection (2)(b) of this section, the local school district shall take additional action to assist and support the school in reaching performance goals; and*
 2. *By a school identified under subsection (2)(a) of this section, the school shall be identified for comprehensive support and improvement.*
- (5) *(a) When a school is identified for comprehensive support and improvement, an audit shall be performed. The local board of education shall select a turnaround audit team with documented expertise in diagnosing the causes of an organization's low performance and providing advice and strategies resulting in effective turnaround leadership. The audit team shall not include any of the district's employees.*
 - (b) *If the local board determines no suitable audit teams are available, the board shall select the department to perform the audit.*
 - (c) *The Kentucky Board of Education shall recommend criteria to the local board of education for a review process that a turnaround audit team may utilize to assess the turnaround leadership capacity of the principal, superintendent, and district.*
 - (d) *The audit conducted under this subsection shall be the only comprehensive audit required for a school unless the school fails to exit comprehensive support and improvement status as described in subsection (10) of this section or exits comprehensive support and improvement status but subsequently repeats as a school identified for comprehensive support and improvement. [A school with a school council identified as needing improvement under KRS 158.6455 shall include in its school improvement plan actions to strengthen the school council and the school based decision-making process at the school.]*
 - ~~(b) The local school district shall include in its assistance plan for a school identified in paragraph (a) of this subsection actions to strengthen the functioning of the school council and the school based decision making process at the school.]~~

- (6)(3) (a) An audit team established under *subsection (5) of this section to audit a school identified for comprehensive support and improvement*~~[KRS 158.6455(4) and (5), auditing a persistently low-achieving school.]~~ shall include in the review and report:
1. *A diagnosis of the causes of the school's low performance, with an emphasis on underperforming subgroups of students and corresponding critical resource inequities*~~[The functioning of the school and the school council];~~
 2. *An assessment and recommendation to the superintendent regarding the principal's capacity to function or develop as a turnaround specialist, including if the principal should be reassigned to a comparable position in the school district*~~[A determination of the school council and principal's ability to lead the intervention in the persistently low-achieving school];~~
 3. *An assessment of the interaction and relationship among*~~[between] the superintendent, central office personnel, and the school principal;~~~~[council; and]~~
 4. *A recommendation of the steps the school may implement to launch and sustain a turnaround process; and*
 5. *A recommendation to the local board of education of the turnaround principles and strategies necessary for the superintendent to assist the school with turnaround*~~[A recommendation to the commissioner of education concerning whether the school council should retain the authority granted to it under KRS 160.345, whether the council should be replaced, and whether the current principal should remain as principal in the school. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:~~
 - a. ~~The authority should be transferred to the superintendent or to the commissioner of education, who shall designate staff to manage the school;~~
 - b. ~~The school council should continue to act in an advisory capacity until all authority has been restored under subsection (8) of this section; and~~
 - c. ~~The members of the school council shall be replaced by the commissioner of education].~~
- (b) *The report of an audit conducted under this subsection shall be provided to the superintendent, local board of education, school principal, commissioner of education, and the Kentucky Board of Education*~~[An audit team established under KRS 158.6455(4) and (5), auditing a district of a school subject to paragraph (a) of this subsection, shall include in its review and report:~~
1. ~~The overall functioning of the school district;~~
 2. ~~The interaction and relationship between the superintendent, central office personnel, school board members, and the council; and~~
 3. ~~A determination of the district's ability to manage the intervention in the persistently low-achieving school.~~
- (4) ~~Within thirty (30) days of receiving the reports of the school and district audits, the commissioner shall act on the recommendations in the reports and other relevant data that the commissioner considers to have bearing on his or her determination of actions to be taken.~~
- (5) ~~Within thirty (30) days of the commissioner's action on the audit teams' recommendations, the school council or local board of education may appeal the commissioner's action to the Kentucky Board of Education by submitting a written request, including any supporting information. The Kentucky Board of Education shall consider the audit reports, the commissioner's decision, and the request for consideration with any supporting information, and make a final determination. If the state board is not scheduled to meet within thirty (30) days following the receipt of an appeal of the commissioner's decision, the board chair shall call a special meeting for action upon the appeal.~~
- (6) ~~If a decision is made to transfer powers, duties, and authority under subsection (4) of this section, the local superintendent, subject to the policies adopted for the district by the local board of education, or the commissioner or the commissioner's designee shall assume all powers, duties, and authority granted to a school council under KRS 160.345 thirty (30) days following the commissioner's action on the audit teams' recommendations if no appeal to the Kentucky Board of Education is submitted or following the final determination of the Kentucky Board of Education on an appeal, whichever is appropriate.~~

- ~~(7) Within thirty (30) days after assuming the powers, duties, and authority under subsection (6) of this section, the superintendent or the commissioner or the commissioner's designee shall consult with the council, if the council has been given an advisory role under subsection (4) of this section, and with stakeholders at the school, including parents, the principal, certified staff, and classified staff, and prepare a plan for developing capacity for sound school-based decision making at the school. The commissioner of education shall review the proposed plan and approve it or identify specific areas for improvement before giving final approval. The superintendent shall report to the commissioner every six (6) months on the implementation and results of the approved plan.~~
- ~~(8) The school's right to establish a council or the school's right for the council to assume the full authority granted under KRS 160.345 shall be restored if the school is not classified as persistently low achieving for two (2) consecutive years.~~
- ~~(7)(9)~~ *After completion of the audit described in subsection (6) of this section, each school identified for comprehensive support and improvement*~~[Each persistently low achieving school]~~ shall engage in~~[one (1) of]~~ the following *turnaround* intervention *process*~~[options]~~:
- (a) *The local board of education shall:*
 - 1. *Issue a request for proposals for a private entity with documented success at turnaround diagnosis, training, and improved performance of organizations to provide a turnaround training and support team to the school identified for comprehensive support and improvement. The local board of education shall select the turnaround entity and negotiate the scope and duration of the entity's services;*
 - 2. *Utilize local staff and community partners to serve as the turnaround team for the school identified for comprehensive support and improvement; or*
 - 3. *Select the Kentucky Department of Education to serve as the turnaround team, if the local board determines the options provided in subparagraphs 1. and 2. of this paragraph are not viable alternatives;*
 - (b) *The authority of the school council granted under Section 11 of this Act shall be transferred to the superintendent;*
 - (c) *The superintendent may either retain the principal or reassign him or her to a comparable position in the district;*
 - (d) *The superintendent shall select a principal for the school if a principal vacancy or reassignment occurs. The superintendent shall consult with the turnaround team, parents, certified staff, and classified staff before appointing a principal replacement;*
 - (e) *Upon recommendation of the principal, the superintendent may reassign certified staff members to a comparable position in the school district;*
 - (f) *The superintendent shall collaborate with the turnaround team to design ongoing turnaround training and support for the principal and a corresponding monitoring system of effectiveness and student achievement results;*
 - (g) *The principal shall collaborate with the turnaround team to establish an advisory leadership team representing school stakeholders including other school leaders, teachers, and parents;*
 - (h)
 - 1. *The local school board shall collaborate with the superintendent, principal, turnaround team, and the advisory leadership team to propose a three (3) year turnaround plan.*
 - 2. *The turnaround plan shall include requests to the department for exemptions from submitting documentation that are identified by the principal, advisory leadership team, and turnaround team as inhibitors to investing time in innovative instruction and accelerated student achievement of diverse learners including ongoing staff instructional plans, student interventions, formative assessment results, or staff effectiveness processes.*
 - 3. *The turnaround plan shall be reviewed for approval by the superintendent and the local board of education and shall be subject to review, approval, monitoring, and periodic review by the department as described in Section 8 of this Act;*

- (i) *The school district may request technical assistance from the department for development and implementation of the turnaround plan, which may include conducting needs assessments, selecting evidence-based interventions, and reviewing and addressing resource inequities;*
 - (j) *The turnaround plan shall be fully implemented by the first full day of the school year following the school year the school was identified for comprehensive support and improvement; and*
 - (k) *The superintendent shall periodically report to the local school board, and at least annually to the commissioner of education, on the implementation and results of the turnaround plan.*
- (8) *To assist with funding the audit and turnaround intervention process described in subsections (5) and (7) of this section and not provided by the department, the department shall annually reimburse the school district, for a maximum of three (3) years, an amount not to exceed the amount budgeted by the department to serve as the turnaround team to a school under subsection (7)(a)3. of this section, including Commonwealth school improvement funds under Section 9 of this Act and assistance personnel.*
- (9) *The Kentucky Board of Education shall establish statewide exit criteria for schools identified for targeted support and improvement and comprehensive support and improvement.*
- (10) *If a school enters comprehensive support and improvement status and does not make any annual improvement, as determined by the department, for two (2) consecutive years, or if the school does not exit the status after three (3) years, the school shall enter a school intervention process chosen by the commissioner of education that provides more rigorous support and action by the department to improve the school's performance.*
- (11) *For school districts that include a significant number of schools, as determined by the department, identified for targeted support and improvement:*
- (a) *The department shall periodically review a local board's resource allocations to support school improvement and provide technical assistance to the local school board; and*
 - (b) *The department may provide a recommended list of turnaround or school intervention providers that have demonstrated success implementing evidence-based strategies.* ~~["External management option" which requires that the day to day management of the school is transferred to an education management organization that may be a for profit or nonprofit organization that has been selected by a local board of education from a list of management organizations. The management organization may be approved by the Kentucky Board of Education after a rigorous review process, which shall be developed by the state board by the promulgation of administrative regulations. The management organization's authority shall include the right to make personnel decisions that comply with KRS Chapter 161 and any employee-employer bargained contract that is in effect;~~
 - ~~(b) "Restaffing option" which requires the replacement of the principal and the existing school-based decision making council unless the audit reports under subsection (3) of this section recommended otherwise, screening of existing faculty and staff with the retention of no more than fifty percent (50%) of the faculty and staff at the school, development and implementation of a plan of action that uses research based school improvement initiatives designed to turn around student performance. Personnel actions shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(d) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers;~~
 - ~~(c) "School closure option" which requires the closure of an existing school and the transfer of its students to other schools within the district that are meeting their accountability measures, reassignment of the school's faculty and staff to available positions within the district, and which may result in nonrenewal of contracts, dismissal, demotion, or a combination of these personnel actions which shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(d) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers;~~
 - ~~(d) "Transformation option" means a school intervention option that begins with replacing the school principal who led the school prior to commencement of the transformation option and replacing the school council members unless the audit reports under subsection (3) of this section recommended otherwise and instituting an extensive set of specified strategies designed to turn around the identified school which shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(d) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers; or~~
 - ~~(e) Any other model recognized by the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor.~~

~~— The Kentucky Board of Education shall promulgate administrative regulations to establish the process and procedures for implementing the intervention options identified in paragraphs (a) to (e) of this subsection available to local boards of education and the commissioner of education.~~

~~(10) Professionally negotiated contracts by a local board of education shall not take precedence over the requirements of paragraphs (b), (c), and (d) of subsection (9) of this section.~~

~~(11) The Department of Education shall provide services and support to assist the schools identified as persistently low achieving.]~~

(12) If, in the course of a school ~~or district~~ audit, the audit team identifies information suggesting that a violation of KRS 160.345(9)(a) may have occurred, the commissioner of education shall forward the evidence to the Office of Education Accountability for investigation.

(13) *A school's right to establish a council granted under Section 11 of this Act may be restored by the local board of education two (2) years after the school exits comprehensive support and improvement status.*

➔Section 13. KRS 160.107 is amended to read as follows:

(1) A district which is an applicant to be designated as a district of innovation under KRS 156.108 shall:

(a) Establish goals and performance targets for the district of innovation proposal, which may include:

1. Reducing achievement gaps among groups of public school students by expanding learning experiences for students who are identified as academically low-achieving;
2. Increasing pupil learning through the implementation of high, rigorous standards for pupil performance;
3. Increasing the participation of students in various curriculum components and instructional components within selected schools to enhance students' preparation at each grade level;
4. Increasing the number of students who are *postsecondary*~~college and career~~-ready; and
5. Motivating students at different grade levels by offering more curriculum choices and student learning opportunities to parents and students within the district;

(b) Identify changes needed in the district and schools to lead to better-prepared students for success in life and work;

(c) Have a district-wide plan of innovation that describes and justifies which schools and innovative practices will be incorporated;

(d) Provide documentation of community, educator, parental, and the local board's support of the proposed innovations;

(e) Provide detailed information regarding the rationale of requests for waivers from Kentucky Revised Statutes and administrative regulations, and exemptions for selected schools regarding waivers of local board of education policies;

(f) Document the fiscal and human resources the board will provide throughout the term of the implementation of the innovations within its plan; and

(g) Provide other materials as required by the Kentucky Department of Education in compliance with the state board's administrative regulations and application procedures.

(2) The district and all schools participating in a district's innovation plan shall:

(a) Ensure the same health, safety, civil rights, and disability rights requirements as are applied to all public schools;

(b) Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;

(c) Ensure that high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation or meet early graduation requirements that may be enacted by the General Assembly;

(d) Ensure the student performance standards meet or exceed those adopted by the Kentucky Board of Education as required by KRS 158.685, including compliance with the statewide assessment system specified in KRS 158.6453;

- (e) Adhere to the same financial audits, audit procedures, and audit requirements as are applied under KRS 156.265;
 - (f) Require state and criminal background checks for staff and volunteers as required of all public school employees and volunteers within the public schools and specified in KRS 160.380 and 161.148;
 - (g) Comply with open records and open meeting requirements under KRS Chapter 61;
 - (h) Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480;
 - (i) Provide overall instructional time that is equivalent to or greater than that required under KRS 158.070, but which may include on-site instruction, distance or virtual learning, and work-based learning on nontraditional school days or hours; and
 - (j) Provide data to the Kentucky Department of Education as deemed necessary to generate school and district reports.
- (3) (a) Only schools that choose to be designated as schools of innovation shall be included in a district's application.
- (b) 1. As used in this paragraph, "eligible employees" means employees that are regularly employed at the school and those employees whose primary job duties will be affected by the plan.
2. A vote shall be taken among eligible employees in a school to determine if the school shall be an applicant as a school of innovation in a district's proposal and to approve the school's plan of innovation before it is submitted to the district. At least seventy percent (70%) of those casting votes shall vote in the affirmative in order for the school to request inclusion in the district's plan and to approve the school's plan of innovation.
3. The school-based decision making council shall be responsible for conducting the vote provided for in subparagraph 2. of this paragraph, which shall be by secret ballot.
- (c) Notwithstanding the provisions of paragraph (a) of this subsection, a local board of education may require a school that has been identified **for comprehensive support and improvement under Section 12 of this Act**~~as a persistently low achieving school under KRS 160.346~~ to participate in the district's plan of innovation.
- (4) (a) With approval of the state board, a school of innovation may request and be granted waivers from all or selected provisions of KRS 160.345 relating to school-based decision making.
- (b) To be exempt from KRS 160.345, a school-based decision making council shall vote by secret ballot to determine if it wishes to request a waiver from KRS 160.345 or specific provisions within that statute. Only a school that has seventy percent (70%) or more of the teachers and staff in the school voting to waive its rights and responsibilities under KRS 160.345 shall be eligible.
- (c) No local board of education or superintendent nor the Kentucky Board of Education may compel a school to waive its rights under KRS 160.345, except as provided in KRS 160.346.
- (d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of Education for a specific school, there shall be assurances that teachers, parents, and staff in the affected school will be actively involved in the management and decision-making operations of the schools, including input into employment matters and selection of personnel.
- (5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may approve the requests of districts of innovation to:
- (a) Use capital outlay funds for operational costs;
 - (b) Hire persons for classified positions in nontraditional school and district assignments who have bachelor's and advanced degrees from postsecondary education institutions accredited by a regional accrediting association as defined in KRS 164.740;
 - (c) Employ teachers on extended employment contracts or extra duty contracts and compensate them on a salary schedule other than the single salary schedule;
 - (d) Extend the school days as is appropriate within the district with compensation for the employees as determined locally;

- (e) Establish alternative education programs and services that are delivered in nontraditional hours and which may be jointly provided in cooperation with another school district or consortia of districts;
- (f) Establish a virtual school within the district for delivering alternative classes to meet high school graduation requirements;
- (g) Use a flexible school calendar;
- (h) Convert existing schools into schools of innovation; and
- (i) Modify the formula under KRS 157.360(2) for distributing support education excellence in Kentucky funds for students in average daily attendance in nontraditional programming time, including alternative programs and virtual programs. Funds granted to a district shall not exceed those that would have otherwise been distributed based on average daily attendance during regular instructional days.

➔Section 14. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to

devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to

- obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
 - (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
 - (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
 - (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
 - (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
 - (25)
 - (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
 - 1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, and ethical considerations arising from board membership;
 - 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 - 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 - 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
 - (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
 - (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
 - (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
 - (27) Select and appoint a president of the council under KRS 164.013;
 - (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
 - (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
 - (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(~~l~~)(~~g~~);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133; and
- (38) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 15. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or the college admissions examination administered statewide under ***subsection (5)(b)5. of Section 3 of this Act***~~[KRS 158.6453(1)(a)3.]~~ if the exam is the ACT, or an equivalent score, as determined by the authority, on the SAT administered by the College Board, Inc.;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means the fall and spring consecutive academic terms within one (1) academic year;
- (6) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (7) "Eligible high school student" means any person who:
- (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 - 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the KEES curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;
 - 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; or
 - 3. In the Gatton Academy of Mathematics and Science in Kentucky or the Craft Academy for Excellence in Science and Mathematics while meeting the Kentucky educational excellence scholarship curriculum requirements;
 - (c) Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under paragraph (b) 2. of this subsection; and
 - (d) Is not a convicted felon;
- (8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
- (a) Earned a KEES award;
 - (b) Has the required postsecondary GPA and credit hours required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (10) "Grade point average" or "GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (11) "High school" means any Kentucky public high school, the Gatton Academy of Mathematics and Science in Kentucky, the Craft Academy for Excellence in Science and Mathematics, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (12) "KEES" or "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

- (13) "KEES award" means:
- (a) For an eligible high school student, the sum of the KEES base amount for each academic year of high school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and
 - (b) For a student eligible under KRS 164.7879(3)(e), the KEES supplemental amount as adjusted pursuant to KRS 164.7881;
- (14) "KEES award maximum" means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned;
- (15) "KEES base amount" or "base amount" means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879;
- (16) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (7)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (17) "KEES supplemental amount" means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879;
- (18) "KEES trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (19) "On track to graduate" means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study;
- (20) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
- (a)
 - 1. Is publicly operated;
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a General Educational Development (GED) diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs; and
- (21) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours.

➔Section 16. KRS 158.145 is amended to read as follows:

- (1) The General Assembly hereby finds that:
- (a) Little progress has been made in reducing the state's student dropout rate;
 - (b) The number of school dropouts in Kentucky is unacceptable;
 - (c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;
 - (d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;
 - (e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;
 - (f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes,

increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and

- (g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:
 - (a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000. All students who drop out of a school during a school year and all students who have not graduated, fail to enroll in the school for the following school year, and do not transfer to another school, shall be included in the statewide annual average school dropout rate, ~~except as provided in KRS 158.6455(1)(b))~~;
 - (b) No school will have an annual dropout rate that exceeds five percent (5%); and
 - (c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or GED than the county had in the year 2000.

➔Section 17. KRS 158.6457 is amended to read as follows:

As used in this section and KRS 158.6452, 158.6453, and 158.6455, unless the context requires otherwise:

- (1) "Accountability index" means the statistic, as provided by KRS 158.6455(1)~~(2))~~, that combines a school's academic and nonacademic factors;
- (2) "Core content for assessment" means the content identified for all students to know that is to be included on the state assessment; and
- (3) "Nonacademic factors" means the statistic that describes school success on:
 - (a) Increasing attendance and decreasing retention rates at the elementary school level;
 - (b) Increasing attendance rates and decreasing retention and dropout rates at the middle school level; and
 - (c) Increasing attendance rates and decreasing retention and dropout rates and improving the transition to adult life at the secondary school level.

➔Section 18. In adopting the amendments to KRS 158.6453 contained in Section 3 of this Act, the General Assembly intends, among other actions, to repeal the common core standards.

➔Section 19. Whereas public education is of vital importance to the future of the Commonwealth and its families, and the timely implementation of provisions to support improvement in public education is essential to the success of our students and the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2017.

CHAPTER 157

(SB 114)

AN ACT relating to required minimum tort liability coverage for motor vehicles.

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

➔Section 1. KRS 304.39-110 is amended to read as follows:

- (1) The requirement of security for payment of tort liabilities is fulfilled by providing:
 - (a) Either:
 - 1. Split limits liability coverage of not less than twenty-five thousand dollars (\$25,000) for all damages arising out of bodily injury sustained by any one (1) person, and not less than fifty thousand dollars (\$50,000) for all damages arising out of bodily injury sustained by all persons

injured as a result of any one (1) accident, plus liability coverage of not less than ~~twenty-five~~^{ten} thousand dollars (~~\$25,000~~^{\$10,000}) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; or

2. Single limits liability coverage of not less than sixty thousand dollars (\$60,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;
 - (b) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and
 - (c) Basic reparation benefits as defined in KRS 304.39-020(2).
- (2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.
 - (3) Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a) and (b) of this section.

➔Section 2. KRS 187.290 is amended to read as follows:

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

- (1) "Cabinet" means the Transportation Cabinet.
- (2) "Highways" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for purpose of vehicular traffic.
- (3) "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.
- (4) "Motor vehicle" means every self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, mopeds, and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (6) "License" means any operator's license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of operators.
- (7) "Nonresident" means every person who is not a resident of this state.
- (8) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.
- (9) "Operator" means every person who is in actual physical control of a motor vehicle.
- (10) "Owner" means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

- (11) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle in ***amounts meeting the requirements of Section 1 of this Act***~~{the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to said limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of ten thousand dollars (\$10,000) because of injury to or destruction of property of others in any one (1) accident}~~.
- (12) "Registration" means registration certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.
- (13) "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

➔Section 3. Section 1 of this Act shall apply to policies issued or renewed on or after January 1, 2018.

Signed by Governor April 10, 2017.

CHAPTER 158

(SB 120)

AN ACT relating to crimes and punishments and making an appropriation therefor.

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

➔Section 1. KRS 453.190 is amended to read as follows:

- (1) A court shall allow a poor person residing in this state to file or defend any action or appeal therein without paying costs, whereupon he shall have any counsel that the court assigns him and shall have from all officers all needful services and process, including the preparation of necessary transcripts for appeal, without any fees, except such as are included in the costs recovered from the adverse party, and shall not be required to post any bond except in an amount and manner reasonable under the circumstances of his poverty.
- (2) A "poor person" means a person who ***has an income at or below one hundred percent (100%) on the sliding scale of indigency established by the Supreme Court of Kentucky by rule or*** is unable to pay the costs and fees of the proceeding in which he is involved without depriving himself or his dependents of the necessities of life, including food, shelter, or clothing.
- (3) Application to proceed without payment of costs and fees, pursuant to subsection (1) herein, shall be made by motion supported by the affidavit of the applicant stating the reasons that he is unable to pay the costs and fees or give security therefor.
- (4) No inmate shall be automatically allowed to proceed through the courts in forma pauperis by virtue of his status as an inmate, nor shall his incarceration lead to a presumption of impoverishment, or constitute evidence of a rebuttable presumption of impoverishment.
- (5) A court may consider the value of all of the benefits an inmate receives by virtue of his incarceration and for which the inmate has not monetarily reimbursed the Commonwealth, including, among other things, the value of his room, board, medical care, dental care, recreational programming, educational opportunities offered to the inmate, legal services provided to the inmate without cost, clothing, laundry, guard protection services, or any other benefit similarly conferred upon the inmate.

➔Section 2. KRS 23A.205 is amended to read as follows:

- (1) Court costs for a criminal case in the Circuit Court shall be one hundred dollars (\$100).
- (2) The taxation of court costs against a defendant, upon conviction in a case, shall be mandatory and shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future.

- (3) If the court finds that the defendant does not meet the standard articulated in subsection (2) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, ~~and~~ fees, **or fines** at the time of sentencing, then the court ~~shall establish a show cause date by which time the court costs, fees, and fines shall be paid and~~ may establish an installment payment plan **in accordance with Section 4 of this Act** ~~whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments as established by the court. All court costs and fees under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to restitution, then to fees, and then to fines~~.

➔Section 3. KRS 24A.175 is amended to read as follows:

- (1) Court costs for a criminal case in the District Court shall be one hundred dollars (\$100), regardless of whether the offense is one for which prepayment is permitted.
- (2) There shall be no court costs for a parking citation when:
 - (a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and
 - (b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.
- (3) The taxation of court costs against a defendant, upon conviction in a case, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future.
- (4) If the court finds that the defendant does not meet the standard articulated in subsection (3) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, fees, ~~or~~ **and** fines at the time of sentencing, then the court ~~shall establish a show cause date by which time court costs, fees, and fines shall be paid and~~ may establish an installment payment plan **in accordance with Section 4 of this Act** ~~whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments as established by the court. The court costs, fees, and fines under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to restitution, then to fees, and then to fines~~.
- (5) Notwithstanding any other provision to the contrary, the court shall not adjudicate a traffic violation involving a defendant who is under the age of eighteen (18), unless the person that assumed liability of the minor under the provisions of KRS 186.590 is present. This subsection shall not apply to emancipated minors.

➔Section 4. KRS 534.020 is amended to read as follows:

- (1) When a defendant is sentenced to pay **court costs, fees, or fines** ~~a fine~~, the court may provide for payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, then the **court costs, fees, or fines** ~~fine~~ shall be payable forthwith.
- (2) ***If the court establishes an installment payment plan for a defendant to pay the full amount of court costs, fees, or fines:***
 - (a) ***The defendant shall be given notice of the total amount due, the payment frequency, and the date by which all payments must be made. The notice shall indicate that if the defendant has not complied with the installment payment plan by the scheduled date, he or she shall appear on that date to show good cause as to why he or she is unable to satisfy the obligations. This notice shall be given to the defendant in writing on a form provided by the Administrative Office of the Courts;***
 - (b) ***Except as provided in subsection (3) of this section, all court costs, fees, and fines shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction; and***
 - (c) ***Installment payments shall be applied first to court costs, then to restitution, then to fees, and then to fines.***

- (3) (a) *If a defendant is required to appear at a show cause hearing pursuant to subsection (2)(a) of this section, the court shall determine whether the defendant's default in payment of court costs, fees, or fines is:*
1. *Excusable due to an inability to pay, and if so, the court may enter an order allowing additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way; or*
 2. *Willful and not due to an inability to pay, and if so, the court may order the defendant to jail on the condition that the defendant shall be released upon payment or completion of daily credit pursuant to Section 6 of this Act.*
- (b) *If the defendant fails to appear at the show cause hearing, the court may issue a warrant for the defendant's arrest. Any warrant for arrest issued for nonpayment of court costs, fees, or fines pursuant to this subsection shall include a notice to the jailer that the defendant shall be released upon payment or completion of daily credit pursuant to Section 6 of this Act.*
- (4) When a defendant is sentenced to pay *court costs, fees, or fines*~~[a fine]~~, an alternative sentence of imprisonment that is to be served in the event the *court costs, fees, or fines are*~~[fine is]~~ not paid shall not be imposed at the same time. The response of a court to nonpayment~~[of a fine]~~ shall be determined only after:
- (a) The *court costs, fees, or fines have*~~[fine has]~~ not been paid; ~~and;~~
 - (b)
 1. *The show cause hearing has been held pursuant to subsections (2)(a) and (3)(a) of this section; or*
 2. *The defendant has failed to appear at the show cause hearing as outlined in subsection (3)(b) of this section*~~[and as provided in KRS 24A.175 or 534.060].~~
- (5) *Court costs, fees, or fines being paid under an installment payment plan that is actively monitored by the court shall not be reported as part of the inventory of liquidated debt pursuant to KRS 45.241.*

➔Section 5. KRS 534.060 is amended to read as follows:

- ~~[(1) When an individual sentenced to pay a fine defaults in the payment of the fine or any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.~~
- ~~(2) Following an order to show cause under subsection (1) of this section, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court and not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed:~~
- ~~(a) Six (6) months, if the fine was imposed for the conviction of a felony; or~~
 - ~~(b) One third (1/3) of the maximum authorized term of imprisonment for the offense committed, if the fine was imposed for conviction of a misdemeanor; or~~
 - ~~(c) Ten (10) days, if the fine was imposed for conviction of a violation.~~
- ~~(3) If the default in payment of a fine is determined to be excusable under the standards set forth in subsection (2) of this section, the court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way.~~
- ~~(4) When a fine is imposed on a corporation, it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections (1) and (2) of this section.~~
- ~~[(5) Following a default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth.]~~

➔Section 6. KRS 534.070 is amended to read as follows:

- (1) A defendant who has been sentenced to jail for failure to pay ~~[a fine or]~~ court costs, *fees, or fines* or for failure to appear in court on a date set for the sole purpose of addressing nonpayment of ~~[a fine or]~~ court costs, *fees, or fines* shall receive credit against the *court*~~[fine and]~~ costs, *fees, or fines* owed for each day the defendant spends in jail at the following rates:

- (a) Fifty dollars (\$50) per day if the defendant does not work at a community service or community labor program; or
 - (b) One hundred dollars (\$100) per day if the defendant works eight (8) hours per day at a community service or community labor program. If the defendant works less than eight (8) hours in a community service or community labor program, the defendant shall be allowed an amount of one-eighth (1/8) of the one hundred dollars (\$100) for each hour worked in a community service or community labor program.
- (2) Credit against ~~a fine or~~ court costs, **fees, or fines** earned by a defendant pursuant to this section shall prohibit the collection of any part of ~~court a fine or~~ costs, **fees, or fines** which has been credited pursuant to this section, and that portion of the ~~court fine or~~ costs, **fees, or fines** shall be considered paid.
- (3) (a) The jailer shall be responsible for monitoring a defendant's community service and tracking the number of days to be served to pay any outstanding ~~fine or~~ court costs, **fees, or fines**.
- (b) ***Unless the defendant is incarcerated pursuant to orders in other cases, upon the service of sufficient days in jail to have sufficient credit to satisfy the court costs, fees, or fines, the defendant shall be released from jail.***
- (4) If a partial payment is made by the defendant or on behalf of a defendant, that payment shall be applied first to court costs, then to fees, and then to fines pursuant to **Section 4 of this Act** ~~[KRS 23A.205 or 24A.175]~~ prior to the application of any credit earned pursuant to this section. Credit earned pursuant to this section shall not be applied to restitution.

➔Section 7. KRS 45.237 is amended to read as follows:

- (1) As used in KRS 45.237 to 45.239:
- (a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;
 - (b) "Cabinet" means the Finance and Administration Cabinet;
 - (c) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;
 - (d) "Debt" means:
 - 1. For agencies, a sum certain which has been certified as due and owing;
 - 2. For local governments, a sum certain which has been certified as due and owing, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes; and
 - 3. For the Court of Justice, a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to **Section 4 of this Act** ~~[KRS 23A.205(3) or 24A.175(4)]~~ has expired;
 - (e) "Department" means the Department of Revenue;
 - (f) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and
 - (g) "Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth.
- (2) The cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall focus first on programs or activities that expend the most federal and general fund dollars. The cabinet shall develop preaudit procedures that meet the unique needs of each agency.
- (3) In establishing these systems of internal control and preaudit policies and procedures, the cabinet shall:
- (a) Consult with each agency within the executive branch to ascertain its unique fraud risks;
 - (b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

- (c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices submitted for payment, applications submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;
 - (d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and
 - (e) Consult with the state Auditor of Public Accounts, the Commonwealth Office of Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.
- (4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the department.
 - (5) A local government may, after making reasonable efforts to collect its debts, by ordinance, resolution, or otherwise pursuant to law, certify its debts that have been due and owing for more than ninety (90) days to the department for collection. The department may, by administrative regulation promulgated in accordance with KRS Chapter 13A, prescribe the form and format of, and the information required in, referrals by a local government, which may be required to be made electronically.
 - (6) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the department shall be allocated to the fund from which the improper payment was expended.
 - (7) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the department to the Legislative Research Commission. These summaries shall include but not be limited to:
 - (a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;
 - (b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and
 - (c) The aggregate amount of certified debts that the agency referred to the department.
 - (8) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).
 - (9) Each local government shall, where feasible, provide information about each debt that is certified pursuant to this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).

➔Section 8. KRS 45.241 is amended to read as follows:

- (1) As used in this section:
 - (a) "Debt" means:
 - 1. For agencies, a sum certain which has been certified by an agency as due and owing; and
 - 2. For local governments, a sum certain which has been certified by a local government as due and owing, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes;
 - (b) "Liquidated debt" means:
 - 1. For agencies, a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted;
 - 2. For local governments, a legal debt for a sum certain which has been certified by a local government as final due and owing, all appeals and legal actions having been exhausted,

including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes; and

3. For the Court of Justice, a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of *Section 4 of this Act* ~~[KRS 23A.205(3) or 24A.175(4)]~~ has expired;
 - (c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;
 - (d) "Department" means the Department of Revenue;
 - (e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;
 - (f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan;
 - (g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and
 - (h) "Local government" means any city, county, urban-county government, consolidated local government, charter county, or unified local government of the Commonwealth.
- (2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.
- (3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.
- (4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute.
- (5) For those agencies without statutory procedures for collecting debts, the Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.
- (6)
 - (a) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the department to the department for review. The department shall review the information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.
 - (b) A local government, after making reasonable efforts to collect its debts, may by ordinance, resolution, or otherwise pursuant to law, submit a list of its liquidated debts that have been due and owing for more than ninety (90) days to the department for review to determine whether it would be cost-effective for the department to pursue collection of the liquidated debts. The department shall review the information submitted by a local government and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.
 - (c) The department may, after consultation with the agency, Court of Justice, or a local government, return the liquidated debt to the entity submitting the liquidated debt if:
 1. The request for review contains insufficient information; or
 2. The debt is not feasible to collect.
 Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.
 - (d) The department shall identify in writing to the submitting agency, Court of Justice, or local government, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency,

- Court of Justice, or local government shall officially refer the identified liquidated debts to the department for collection.
- (e) The agency, Court of Justice, and local government shall retain a complete record of all liquidated debts referred to the department for collection until the debt is collected, forgiven, or returned as uncollectible.
 - (f) Each agency, the Court of Justice, and local government shall make appropriate accounting of any uncollected debt as prescribed by law.
- (7) (a) If the agency recovers the debt funds prior to referral to the department, the agency shall retain the collected funds in accordance with its statutory authority.
- (b) 1. Upon referral of a liquidated debt to the department, the liquidated debt shall accrue the following amounts:
 - a. Interest on the total amount of the debt plus legal accruals at the tax interest rate provided in KRS 131.183, from the time of referral until paid; and
 - b. A one (1) time twenty-five percent (25%) collection fee on the total amount of the debt plus legal accruals, as of the time of referral;
 unless the interest and collection fee are waived by the department.
 - 2. The interest and collection fee shall be in addition to any other costs accrued prior to the time of referral.
 - 3. The department may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt.
 - 4. In the case of agencies and the Court of Justice, any funds recovered by the department after the deduction of the department's cost of collection expenses may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency identifying the liquidated debt or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.
 - 5. In the case of local governments, any funds recovered by the department after the deduction of the department's cost of collection expenses shall be returned to the local government referring the liquidated debt, for allocation as provided by ordinance, resolution, or as otherwise provided by law.
- (c) Nothing in this section shall prohibit the department from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the department, the agency shall retain funds collected according to the provisions of the agreement.
 - (d) This section shall not affect any agreement between the department and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the department on behalf of the agency.
 - (e) This section shall not affect the collection of delinquent taxes by sheriffs or county attorneys under KRS 91A.070 or 134.504.
 - (f) This section shall not affect the collection of performance or reclamation bonds.
- (8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the department shall pursue collection of the referred debt in accordance with KRS 131.030.
- (9) By administrative regulation promulgated under KRS Chapter 13A, the department shall prescribe the electronic format and form of, and the information required in, a referral.
- (10) (a) The department shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments, referred by agencies and the Court of Justice. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the department; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the department; and the total amount of each referring agency's

liquidated debt, by fund type, that the department determined to be cost-ineffective to collect, including the reasons for the determinations.

- (b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:
 - 1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and
 - 2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the department; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the department provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.
 - (c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.
 - (d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.
- (11) At the time of submission of a liquidated debt to the department for review, the referring agency, the Court of Justice, or, where feasible, the local government shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

➔Section 9. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2)
 - (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
 - (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
 - (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.

- (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
- (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by *Section 4 of this Act and KRS 534.060*.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
 - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care

assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

- (30) (a) Prior to January 1, 2011, any person who violates KRS 189.292 or 189.294 shall not be issued a uniform citation, but shall instead receive a courtesy warning.
- (b) On or after January 1, 2011, any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

➔Section 10. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall be sentenced to pay a service fee of three hundred seventy-five dollars (\$375), which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020~~[relating to the method of imposition]~~ and KRS 534.060~~[as to remedies for nonpayment of the fee]~~.
- (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid into the general fund, and the remainder of the revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Department of Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department for Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 - 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 - 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph;
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department for Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

➔Section 11. KRS 189A.130 is amended to read as follows:

Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by *Section 4 of this Act and* KRS 534.060.

➔Section 12. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

- (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;

- (2) "Commissioner" means the commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Deputy commissioner" means the deputy commissioner of the Office of Adult Institutions or the deputy commissioner of the Office of Community Services and Facilities of the Department of Corrections;
- (5) "Board" means the Parole Board created by KRS 439.320;
- (6) "Community supervision" means:
 - (a) The placement of a defendant under supervision with conditions imposed by a court for a specified period during which:
 - 1. Criminal proceedings are deferred without an adjudication of guilt; or
 - 2. A sentence of imprisonment or confinement, imprisonment and fine, or confinement and fine, is probated and the imposition of sentence is suspended in whole or in part; or
 - (b) The placement of an individual under supervision after release from prison or jail, with conditions imposed by the board for a specified period;
- (7) "**Parole** compliance credit" means a credit on a paroled individual's sentence for program credit, work-for-time credit, educational accomplishment, or meritorious service and shall be calculated pursuant to the applicable provisions in KRS 197.045 and 197.047;
- (8) "**Supervised compliance credit**" means a credit on a supervised individual's sentence for compliance with supervision that shall be calculated pursuant to Section 13 of this Act;
- (9) "Positive reinforcement" means any of a wide range of rewards and incentives, including but not limited to awarding certificates of achievement, reducing reporting requirements, deferring a monthly supervision fee payment, removing supervision conditions such as home detention or curfew, or asking the supervised individual to be a mentor to others;
- ~~(10)(9)~~ "Probation and parole district supervisor" means the highest ranking field probation or parole administrator in each district; and
- ~~(11)(10)~~ "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail.

➔Section 13. KRS 439.345 is amended to read as follows:

- (1) ~~An~~~~A supervised~~ individual on parole shall receive **parole** compliance credits to be applied toward the individual's sentence, if the paroled individual does all of the following:
 - (a) Fulfills the terms of his or her case plan;
 - (b) Has no new arrests; and
 - (c) Makes scheduled monthly payments for restitution, *if any*.
- (2) (a) *After one (1) full calendar month of being supervised, a supervised individual eligible under this subsection on parole shall receive thirty (30) days of supervised compliance credit for every full calendar month he or she is substantially compliant with supervision. After a supervised individual has served at least one (1) year on supervision, the accrued supervised compliance credits shall be applied towards the individual's sentence.*
 - (b) *As used in this subsection:*
 - 1. *"Eligible" means an offender being supervised for a Class D felony that:*
 - a. *Does not qualify the offender as a violent offender as defined in KRS 439.3401 or a sexual offender as defined in KRS 17.550; and*
 - b. *Did not result from a conviction of KRS 508.025 where the victim was a peace officer; and*
 - 2. *"Substantially compliant" means:*
 - a. *Compliance with the terms of his or her case plan;*
 - b. *Has no new arrests; and*

- c. *Makes scheduled monthly payments for restitution, if any.*
 - (3) (a) *After one (1) full calendar month of being supervised, a supervised individual eligible under this subsection on parole shall receive thirty (30) days of supervised compliance credit for every full calendar month he or she is substantially compliant with supervision. After a supervised individual has served at least two (2) years on supervision, the accrued supervised compliance credits shall be applied towards the individual's sentence.*
 - (b) *As used in this subsection:*
 - 1. *"Eligible" means an offender who:*
 - a. *Is not a persistent felony offender; and*
 - b. *Is being supervised for a Class C felony that:*
 - i. *Does not qualify the offender as a violent offender as defined in KRS 439.3401 or a sexual offender as defined in KRS 17.550; and*
 - ii. *Did not result from a conviction of KRS 218A.1401, 218A.1410, 218A.1411, 218A.1412, 218A.1413, 218A.1414, 218A.1421, 218A.1423, 218A.1430, 218A.1438, 218A.1439, or 218A.286; and*
 - 2. *"Substantially compliant" means:*
 - a. *Compliance with the terms of his or her case plan;*
 - b. *Has no new arrests; and*
 - c. *Makes scheduled monthly payments for restitution, if any.*
 - (4) The department shall promulgate administrative regulations for the awarding of ~~parole~~~~earned~~ compliance credits *and supervised compliance credits pursuant to this section*~~to a supervised individual who is on parole~~.
- ➔Section 14. KRS 439.3108 is amended to read as follows:
- (1) Notwithstanding any administrative regulation or law to the contrary, including KRS 439.340(3)(b), the department or board may:
 - (a) Modify the conditions of community supervision for the limited purpose of imposing graduated sanctions;~~and~~
 - (b) Place a supervised individual *who is on probation* who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for a period of not more than ten (10) days consecutively, and not more than ~~sixty (60)~~~~thirty (30)~~ days in any one (1) calendar year. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a person confined under this paragraph at the rate specified in KRS 532.100;
 - (c) *Place a supervised individual serving a period of parole or post-release supervision from prison or jail who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for a period of not more than thirty (30) days consecutively, and not more than sixty (60) days in any one (1) calendar year. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a person confined under this paragraph at the rate specified in Section 85 of this Act; and*
 - (d) *Notwithstanding paragraphs (b) and (c) of this subsection, place any supervised individual who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for the period of time a supervised individual awaits admission to a residential alcohol or substance use treatment program. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a supervised individual serving a period of parole or post-release supervision confined under this paragraph at the rate specified in Section 85 of this Act.*
 - (2) A probation and parole officer intending to modify the conditions of community supervision by imposing a graduated sanction shall issue to the supervised individual a notice of the intended sanction. The notice shall

inform the supervised individual of the technical violation or violations alleged, the date or dates of the violation or violations, and the graduated sanction to be imposed.

- (3) The imposition of a graduated sanction or sanctions by a probation and parole officer shall comport with the system of graduated sanctions adopted by the department under KRS 439.3107. Upon receipt of the notice, the supervised individual shall immediately accept or object to the sanction or sanctions proposed by the officer. The failure of the supervised individual to comply with a sanction shall constitute a violation of community supervision.
- (4) If the supervised individual objects to the imposition of the sanction or sanctions, then:
 - (a) If the supervised individual is serving a period of parole or post-release supervision from prison or jail, then the administrative process promulgated under KRS 439.3107(3) shall apply; or
 - (b) If the supervised individual is on probation, then the provisions of KRS 533.050 shall apply.
- (5) If the graduated sanction involves confinement in a correctional or detention facility, confinement shall be approved by the probation and parole district supervisor, but the supervised individual may be taken into custody for up to four (4) hours while such approval is obtained. If the supervised individual is employed, the probation and parole officer shall, to the extent feasible, impose this sanction on weekend days or other days and times when the supervised individual is not working.
- (6) A sanction that confines a supervised individual in a correctional or detention facility for a period of more than ten (10) consecutive days, or extends the term of community supervision, shall not be imposed as a graduated sanction, except pursuant to an order of the court or the board.
- (7) Upon successful completion of a graduated sanction or sanctions, a court may not revoke the term of community supervision or impose additional sanctions for the same violation.
- (8) If a probation and parole officer modifies the conditions of community supervision by imposing a graduated sanction, the officer shall:
 - (a) Deliver a copy of the modified conditions to the supervised individual;
 - (b) File a copy of the modified conditions with the sentencing court or releasing authority; and
 - (c) Note the date of delivery of the copy in the supervised individual's file or case management system.

➔Section 15. KRS 439.3406 is amended to read as follows:

- (1) The board shall order mandatory reentry supervision six (6) months prior to the projected completion date of an inmate's sentence for an inmate who has not been granted discretionary parole.
- (2) The provisions of subsection (1) of this section shall not apply to an inmate who:
 - (a) Is not eligible for parole by statute;
 - (b) Has been convicted of a capital offense or a Class A felony;
 - (c) Has a maximum or close security classification as defined by administrative regulations promulgated by the department;
 - (d) Has been sentenced to two (2) years or less of incarceration;
 - (e) Is subject to the provisions of KRS 532.043;~~{or}~~
 - (f) Has six (6) months or less to be served after his or her sentencing by a court or recommitment to prison for a violation of probation, shock probation, parole, or conditional discharge;
 - (g) ***If recommitted to prison for a violation of probation, shock probation, parole, or conditional discharge, has not served at least six (6) months since being recommitted; or***
 - (h) ***Has twice been released on mandatory reentry supervision.***
- (3) An inmate granted mandatory reentry supervision pursuant to this section may be returned by the board to prison for violation of the conditions of supervision and shall not again be eligible for mandatory reentry supervision during the same period of incarceration.
- (4) An inmate released to mandatory reentry supervision shall be considered to be released on parole.
- (5) Mandatory reentry supervision is not a commutation of sentence or any other form of clemency.

- (6) No hearing shall be required for the board to order an inmate to mandatory reentry supervision pursuant to subsection (1) of this section. Terms of supervision for inmates released on mandatory reentry supervision shall be established as follows:
- (a) The board shall adopt administrative regulations establishing general conditions applicable to each inmate ordered to mandatory reentry supervision pursuant to subsection (1) of this section. If an inmate is ordered to mandatory reentry supervision, the board's order shall set forth the general conditions and shall require the inmate to comply with the general conditions and any requirements imposed by the department in accordance with this section;
 - (b) Upon intake of an inmate ordered to mandatory reentry supervision by the board, the department shall use the results of the risk and needs assessment administered pursuant to KRS 439.3104(1) to establish appropriate terms and conditions of supervision, taking into consideration the level of risk to public safety, criminal risk factors, and the need for treatment and other interventions. The terms and conditions imposed by the department under this paragraph shall not conflict with the general conditions adopted by the board pursuant to paragraph (a) of this subsection; and
 - (c) The powers and duties assigned to the commissioner in relation to probation or parole under KRS 439.470 shall be assigned to the commissioner in relation to mandatory reentry supervision.
- (7) Subject to subsection (3) of this section, the period of mandatory reentry supervision shall conclude upon completion of the individual's minimum expiration of sentence.
- (8) If the board issues a warrant for the arrest of an inmate for absconding from supervision during the mandatory reentry supervision period, and the inmate is subsequently returned to prison as a violator of conditions of supervision for absconding, the inmate shall not receive credit toward the remainder of his or her sentence for the time spent absconding.
- (9) The department shall report the results of the mandatory reentry supervision program to the Interim Joint Committee on Judiciary by February 1, 2015.

➔Section 16. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, DNA sample, and photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided a DNA sample as of July 1, 2009, shall provide a DNA sample to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.
- (5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.

- (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
- (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) (a) ***Except as provided in paragraph (b) of this subsection***, any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (b) ***No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.***
- (7) (a) ***Except as provided in paragraph (b) of this subsection***, if a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (b) ***No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.***
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
- (b)
 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

- (c) If the electronic mail address or any instant messaging, chat, or other Internet communication name identities of any registrant changes, or if the registrant creates or uses any new Internet communication name identities, the registrant shall register the change or new identity, on or before the date of the change or use or creation of the new identity, with the appropriate local probation and parole office in the county in which he or she resides.
- (d)
 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection or learns of the registrant's new or changed electronic mail address or instant messaging, chat, or other Internet communication name identities under paragraph (c) of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) (a) The cabinet shall verify the addresses and the electronic mail address and any instant messaging, chat, or other Internet communication name identities of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the cabinet determines that a person has moved or has created or changed any electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person without providing his or her new address, electronic mail address, or instant messaging, chat, or other Internet communication name identity to the appropriate local probation and parole office or offices as required under subsection (10)(a), (b), and (c) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address or electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.
- (b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
 1. Shall consider revocation of the parole, probation, postincarceration supervision, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

As used in Sections 17 to 24 of this Act:

- (1) *"Department" means the Department of Corrections;*
- (2) *"Drug" means alcohol or a controlled substance as defined in KRS 218A.010;*
- (3) *"Drug supervision session" means a meeting between the reentry team and the participant to discuss the participant's progress through the reentry drug supervision pilot program;*
- (4) *"Participant" means an inmate or parolee selected to participate in the reentry drug supervision pilot program;*
- (5) *"Reentry drug supervision pilot program" or "pilot program" means the program created under Section 18 of this Act;*
- (6) *"Reentry team" means the team organized under Section 19 of this Act to administer and oversee the reentry drug supervision pilot program; and*

- (7) *"Substance use disorder" has the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

- (1) *By March 2018, the department shall implement a reentry drug supervision pilot program with the goal of restoring lives and reducing recidivism through oversight and behavior modification.*
- (2) *The reentry drug supervision pilot program shall last four (4) years and shall:*
- (a) *Be administered and overseen by a reentry team organized under Section 19 of this Act;*
 - (b) *Be composed of inmates or parolees placed in the pilot program pursuant to Section 20 of this Act;*
 - (c) *Consist of two (2) phases as outlined in Section 21 of this Act;*
 - (d) *Provide a continuum of substance use disorder treatments and rehabilitative services;*
 - (e) *Monitor participants with frequent drug testing;*
 - (f) *Implement a coordinated strategy to govern the pilot program's responses to participants' compliance;*
 - (g) *Require ongoing reentry team interaction with each participant; and*
 - (h) *Forge partnerships among public agencies and community-based organizations.*
- (3) *The department shall monitor and evaluate the reentry drug supervision pilot program to determine:*
- (a) *The number of participants who complete the pilot program;*
 - (b) *Of the participants who complete the pilot program, the number who later have their parole revoked and for what offense or, if no longer on parole, the number who commit new offenses and a description of those new offenses;*
 - (c) *The number of participants terminated from the pilot program, the reason for their termination, and how long they participated in the pilot program before termination; and*
 - (d) *Any savings associated from placing participants in the pilot program versus keeping those participants incarcerated.*
- (4) *For a total of seven (7) years, the department shall provide an annual report to the Legislative Research Commission and to the Interim Joint Committee on Judiciary by January 1 of each year the reentry drug supervision pilot program is in operation as well as the following three (3) years. The report shall include the data detailed in subsection (3) of this section.*
- (5) *The department may promulgate administrative regulations to implement Sections 17 to 24 of this Act.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

- (1) *The reentry team shall administer and oversee the reentry drug supervision pilot program. The team shall consist of the following members:*
- (a) *A department hearing officer shall lead the reentry team and ensure that due process is followed. If reentry team members disagree on incentives or sanctions, the hearing officer shall be the final decision maker;*
 - (b) *A parole officer who shall have regular parole officer duties, including drug testing and maintaining records;*
 - (c) *A reentry liaison or facilitator from the Division of Probation and Parole;*
 - (d) *A social service clinician;*
 - (e) *A public defender or his or her designated representative who may or may not be an attorney; and*
 - (f) *A designated representative from a community mental health center who shall provide substance use disorder treatment to participants.*
- (2) *The Administrative Office of the Courts shall train reentry team members on the philosophy behind drug courts as well as their roles within the team.*
- (3) *The reentry team may provide incentives, including but not limited to the following:*

- (a) *Promotion to the next phase as outlined in Section 21 of this Act;*
 - (b) *Certificates and tokens;*
 - (c) *Compliance credit or any other parole credit approved by the reentry team;*
 - (d) *Decreased supervision;*
 - (e) *Increased privileges and responsibilities;*
 - (f) *Praise from the hearing officer and reentry team;*
 - (g) *Extended curfews; and*
 - (h) *Other individual incentives approved by the reentry team.*
- (4) (a) *Notwithstanding KRS 439.3108 or 439.340(3)(b) or any other statute to the contrary, only the reentry team may impose sanctions on participants who do not comply with the requirements and conditions established by the reentry team. Notwithstanding KRS 439.3107 or 439.3108 or any other statute to the contrary, sanctions include but are not limited to the following:*
- 1. *Admonishments by the hearing officer;*
 - 2. *Graduated sanctions similar to those adopted by the department pursuant to KRS 439.3107;*
 - 3. *Community service;*
 - 4. *Phase demotion;*
 - 5. *Increased pilot program requirements;*
 - 6. *Electronic monitoring;*
 - 7. *Home incarceration;*
 - 8. *Imprisonment in a state or local correctional or detention facility or residential center for no more than sixty (60) days in any one (1) calendar year; and*
 - 9. *Termination from the pilot program.*
- (b) *When considering appropriate sanctions, the reentry team shall consider alternatives to incarceration.*
- (c) *Notwithstanding paragraph (a) of this subsection, a parole officer may arrest a participant without first consulting the reentry team if the parole officer believes the participant poses an imminent threat to himself or herself or to others. The parole officer shall immediately notify the reentry team of the arrest. Upon receiving notification of the arrest, the reentry team shall then determine whether to impose additional sanctions.*
- (5) *Reentry team proceedings shall be confidential and shall be closed unless otherwise authorized by the hearing officer. Each reentry team member shall sign a confidentiality agreement and shall comply with state and federal confidentiality laws regarding treatment information. Documents contained in a participant's pilot program case file shall be confidential and only those documents that do not violate these state and federal confidentiality laws shall be released.*
- ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:
- (1) *The department shall implement the reentry drug supervision pilot program created under Section 18 of this Act for inmates or parolees placed in the pilot program pursuant to this section.*
- (2) *Inmates or parolees may be referred to the Parole Board as candidates for the pilot program by either the department's Division of Substance Abuse Programming as outlined in subsection (3) of this section or the department's hearing officers as outlined in subsection (4) of this section.*
- (3) (a) *After sentencing, the department's Division of Substance Abuse Programming shall conduct a substance abuse assessment of the following inmates:*
- 1. *Inmates whose offense for which he or she was sentenced:*
 - a. *Does not qualify him or her as a violent offender as defined in KRS 439.3401 or a sexual offender as defined in KRS 17.550; and*

- b. *Did not result in death or serious physical injury of a victim;*
 - 2. *Inmates:*
 - a. *Who have been convicted of, or entered an Alford plea or plea of nolo contendere to, a Class C or D felony that is:*
 - i. *A drug offense; or*
 - ii. *An offense arising from a substance use disorder; or*
 - b. *Whose probation or parole was revoked due to a substance use disorder or those with a history of substance use disorder; and*
 - 3. *Inmates who have not previously participated in the reentry drug supervision pilot program.*
- (b) *After reviewing the substance abuse assessments required under paragraph (a) of this subsection, the department's Division of Substance Abuse Programming shall refer to the Parole Board those inmates determined by the division to be candidates for the reentry drug supervision pilot program.*
- (4) *During a preliminary parole revocation hearing, if a department hearing officer suspects a parolee is suffering from a substance use disorder, the hearing officer may order a one (1) month deferment to allow the department's Division of Substance Abuse Programming to conduct a substance abuse assessment of the parolee. After evaluating the assessment, the hearing officer may recommend to the Parole Board that the parolee be placed into the pilot program instead of being revoked.*
- (5) (a) *Upon receiving a referral from the department's Division of Substance Abuse Programming pursuant to subsection (3) of this section or from the department's hearing officers pursuant to subsection (4) of this section, the Parole Board shall notify the inmate's or parolee's victims, if any, and provide them an opportunity to submit a written victim impact statement and to testify. The Parole Board shall then evaluate the referred inmate or parolee to determine whether to place him or her in the reentry drug supervision pilot program.*
- (b) *When evaluating whether to place a referred inmate or parolee in the reentry drug supervision pilot program, the Parole Board shall consider the following:*
- 1. *Current criminal charges, if any;*
 - 2. *Criminal convictions;*
 - 3. *Results of the substance abuse assessment conducted pursuant to subsection (3) or (4) of this section;*
 - 4. *Plan of recovery created by the department;*
 - 5. *Information regarding the victims, if any;*
 - 6. *Trial court's recommendation to participate in the pilot program, if any;*
 - 7. *An inmate's or parolee's willingness to participate; and*
 - 8. *Other relevant information as identified by the department.*
- (6) *After evaluating the referred inmate or parolee pursuant to subsection (5) of this section, the Parole Board shall determine whether to place an inmate or parolee into the reentry drug supervision pilot program.*
- (7) (a) 1. *Notwithstanding KRS 218A.1412 or 439.340 or any other statute to the contrary, if the Parole Board decides to place an inmate in the reentry drug supervision pilot program, the inmate shall immediately be paroled into the pilot program. The only conditions of parole shall be to:*
- a. *Have no contact with victims, if applicable;*
 - b. *Pay restitution, if applicable; and*
 - c. *Adhere to Sections 17 to 24 of this Act and to the reentry team's requirements and conditions.*
2. *Notwithstanding any statute to the contrary, if the Parole Board decides to place a parolee in the reentry drug supervision pilot program, the parolee shall immediately be entered into the pilot program. The only conditions of parole shall be to:*

- a. *Adhere to any special conditions established by the Parole Board; and*
- b. *Adhere to Sections 17 to 24 of this Act and to the reentry team's requirements and conditions.*
- (b) *Participants shall remain on parole until sentence completion unless the reentry team determines to terminate or administratively discharge the participant from the pilot program. If terminated from the pilot program, the reentry team shall refer the participant to the Parole Board for revocation.*

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

- (1) *The reentry drug supervision pilot program shall consist of two (2) phases lasting a minimum of twelve (12) months or until sentence completion, whichever occurs first. Both phases shall occur after the participant is paroled.*
- (2) *The first phase is an education phase. For the first phase, the participant shall at a minimum:*
 - (a) *Provide at least three (3) random drug screens per week;*
 - (b) *Attend as many group therapy sessions per week as determined necessary by a community mental health center. The community mental health center shall conduct the group therapy sessions;*
 - (c) *Attend one (1) drug supervision session per week;*
 - (d) *Obtain and maintain full-time employment, training, or education approved by the reentry team;*
 - (e) *Obtain and maintain housing approved by the reentry team;*
 - (f) *Make arrangements for payment of court obligations and any probation and parole fees required by the department;*
 - (g) *Indicate an appropriate understanding of recovery principles;*
 - (h) *Attend self-help programs, such as a twelve (12) step program; and*
 - (i) *Remain drug-free for ninety (90) consecutive days in this phase before consideration for promotion to the second phase.*
- (3) *The second phase is the self-motivation phase. For the second phase, the participant shall at a minimum:*
 - (a) *Provide at least two (2) random drug screens per week;*
 - (b) *Attend as many group therapy sessions per week as determined necessary by a community mental health center. The community mental health center shall conduct the group therapy sessions;*
 - (c) *Attend two (2) drug supervision sessions every two (2) weeks;*
 - (d) *Maintain full-time employment, training, or education approved by the reentry team;*
 - (e) *Maintain housing approved by the reentry team;*
 - (f) *Continue paying court obligations and any probation and parole fees required by the department;*
 - (g) *Indicate an appropriate understanding of recovery lifestyle;*
 - (h) *Continue to attend self-help programs, such as a twelve (12) step program; and*
 - (i) *Remain drug-free for ninety (90) consecutive days in this phase.*
- (4) *Participants may be ordered during any phase to comply with additional requirements, including but not limited to the following:*
 - (a) *Employment, school, or home visits by the pilot program staff;*
 - (b) *Domestic violence counseling with a certified domestic violence treatment provider, or other types of counseling, as referred by the reentry team;*
 - (c) *Curfews as established by the reentry team; and*
 - (d) *Medical or mental health referrals and subsequent treatment recommendations.*
- (5) *After successful completion of the second phase, if a participant has not yet completed his or her sentence, the participant shall move from the reentry drug supervision pilot program to regular parole.*

- (6) *If the reentry team terminates the participant from the pilot program, the participant shall be referred to the Parole Board for revocation. If terminated, the reentry team shall determine whether the participant may receive credit toward the remainder of his or her sentence for the time spent in the pilot program.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

If reentry drug supervision pilot program participation as outlined in Section 21 of this Act is impracticable due to inpatient treatment or similar circumstances in which the participant is being monitored by an authorized third party, the participant shall be placed in suspended status. Upon release from the authorized third party, the participant shall resume participation in the reentry drug supervision pilot program. During the time in which the participant is suspended, no credit shall be earned toward the completion of the two (2) pilot program phases.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

If a participant cannot complete the pilot program through no fault of his or her own, he or she may be administratively discharged. If the reentry team determines that administrative discharge is appropriate, the department shall determine whether to move the participant to regular parole or to refer the participant to the Parole Board for revocation. If administratively discharged, the participant shall receive credit toward the remainder of his or her sentence for the time spent in the pilot program.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

Participants may request voluntary termination from the pilot program. If the reentry team determines the request is knowingly and voluntarily made, the participant shall be referred to the Parole Board for revocation. If voluntarily terminated, the reentry team shall determine whether the participant may receive credit toward the remainder of his or her sentence for the time spent in the pilot program.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *A law enforcement agency may create a program to refer persons to treatment for substance use who voluntarily seek assistance from the law enforcement agency.*
- (2) *A person voluntarily seeking assistance through a program created pursuant to this section:*
- (a) *Shall not be placed under arrest;*
 - (b) *Shall not be prosecuted for the possession of any controlled substance, paraphernalia, or other item surrendered to the law enforcement agency. Items surrendered pursuant to this paragraph shall be recorded by the law enforcement agency at the time of surrender and shall be destroyed;*
 - (c) *Shall be paired immediately with a volunteer mentor to assist his or her recovery; and*
 - (d) *Shall be immediately referred to a community mental health center, medical provider, or other entity for substance use treatment.*
- (3) *A person is ineligible for placement through a program established pursuant to this section if the person:*
- (a) *Has an outstanding arrest warrant;*
 - (b) *Has been convicted of three (3) or more drug-related offenses; or*
 - (c) *Is under the age of eighteen (18) and does not have the consent of a parent or guardian.*
- (4) *Programs created pursuant to this section may be called an Angel Initiative Program.*

➔Section 26. KRS 202A.121 is amended to read as follows:

Upon the appearance of the person detained pursuant to KRS 202A.041 or upon the filing of a petition pursuant to KRS 202A.051, the court shall appoint an attorney to represent the respondent with such appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing. *Notwithstanding KRS 202A.091, an attorney appointed by the court or retained by the respondent shall be given access to the court records relating to the petition.*

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

- (1) *The department may administer a Prison Industry Enhancement Certification Program (PIECP) and may lease the labor of state prisoners within the boundaries of the state's Department of Corrections facilities for the production of nonagricultural goods for sale to both public and private buyers, if the department*

meets the conditions set out in this section. This section shall apply only to the leasing of labor in accordance with a PIECP and not to programs otherwise operated by Kentucky Correctional Industries.

- (2) The department shall not lease the labor of a prisoner who does not consent in writing to the leasing of that prisoner's labor.*
- (3) The department shall retain full responsibility for the care, custody, and control of the prisoner and shall supply appropriate security and custody services without cost to the person leasing the labor.*
- (4) The department shall ensure that the prisoner is paid wages at a rate not less than that paid for work of a similar nature in the locality in which the work takes place, as determined by the Labor Cabinet, and never less than the federal minimum wage. The final decision on the appropriate wage, in keeping with federal and state labor and wage laws, shall be made by the Kentucky State Corrections Commission.*
- (5) The department shall not allow a prisoner whose labor has been leased under this section to:*
 - (a) Engage in work that would result in the displacement of employed workers in the specific Department of Corrections locale. As used in this paragraph, a displaced employed worker is:*
 - 1. A civilian worker employed in the same task by the employer leasing or applying to lease prisoner labor, who would lose his or her job if the prisoner labor were leased; or*
 - 2. A civilian worker who is employed full-time and, as a result of the prisoner labor lease, is forced to work part-time, regardless of wage increase.*

A civilian worker is not considered displaced for the purposes of this paragraph if the civilian worker remains employed in a job acceptable to that worker and at equal or higher wages than that worker previously received. The employer shall provide whatever retraining is required of the civilian worker at no cost to the civilian worker;
 - (b) Labor in a skill, craft, or trade in which there is a surplus of labor for that skill, craft, or trade in that specific Department of Corrections locale;*
 - (c) Perform any work that would impair existing contracts for goods or services;*
 - (d) Perform leased work outside of Department of Corrections facilities; or*
 - (e) Perform leased construction work inside or outside Department of Corrections facilities.*
- (6) Before the commencement of any leased labor project at a Department of Corrections facility under this section, the department shall:*
 - (a) Receive a written projection from the Labor Cabinet that the leased labor project shall not result in acts prohibited by subsection (5)(a) to (c) of this section;*
 - (b) Receive written documentation from the employer leasing or applying to lease prisoner labor agreeing to not displace any of its non-prisoner employees with leased prisoner labor;*
 - (c) Have written documentation of consultation with local unions representing labor in the specific Department of Corrections facility's locale in any skill, craft, or trade in which a prisoner may labor at that facility. If a local union is not available, the department shall consult with a similar statewide union. The department shall present this information to the Kentucky State Corrections Commission;*
 - (d) Have written documentation of consultation with local private businesses that may be economically impacted by the leased labor project. The department shall present this information to the Kentucky State Corrections Commission; and*
 - (e) Have written documentation of compliance with the National Environmental Policy Act (NEPA).*
- (7) The leasing of prisoner labor shall not be deemed to create an employer-employee relationship between the person leasing the labor of the prisoner and the prisoner. However, the person leasing the labor of the prisoner shall provide for workers' compensation coverage for the prisoner and, if applicable, Social Security coverage for the prisoner.*
- (8) A prisoner, as a condition of participation in a program operating under the provisions of this section, shall agree to the deductions from the prisoner's earnings set out in this subsection. The department or the person leasing the labor of the prisoner shall deduct, in the following order, from a prisoner's gross wages:*

- (a) *If the prisoner is the subject of a court or administrative order for the support of a dependent, no less than twenty-five percent (25%) for the payment of the court or administratively ordered support. These deducted wages shall be paid to the Cabinet for Health and Family Services' Child Support Enforcement Program for disbursement in accordance with federal and state law;*
- (b) *Twenty percent (20%) to be paid to the crime victim's compensation fund established in KRS 346.185;*
- (c) *Applicable federal, state, and local taxes, including Social Security if applicable; and*
- (d) *Reasonable room and board fees established by the department by administrative regulation.*

Total deductions from a prisoner's gross wages shall not exceed eighty percent (80%).

- (9) *The department shall require any person leasing the labor of a prisoner to post bond, with good surety, in an amount determined by the department, against any judgment that may be entered against the department arising from the leasing of prisoner labor to that person.*
- (10) *In leasing prisoner labor under this section, the department shall seek to have the labor leased to the highest responsible bidder.*
- (11) *The department shall provide for reasonable access to the grounds of the Department of Corrections facilities for the person leasing the inmate labor and for the location of the work and the transporting and siting of equipment and supplies, with the security of the public being paramount.*
- (12) *The department may promulgate administrative regulations to implement the provisions of this section.*

➔SECTION 28. A NEW SECTION OF KRS 196.700 TO 196.735 IS CREATED TO READ AS FOLLOWS:

For a Prison Industry Enhancement Certification Program (PIECP) administered pursuant to Section 27 of this Act, the Kentucky State Corrections Commission shall:

- (1) *Develop a statewide strategic plan for the development and implementation of goals, objectives, and criteria for Prison Industry Enhancement Certification Programs (PIECPs);*
- (2) *Conduct a statewide assessment of business opportunities for the Kentucky Correctional Industries operating locations and private business opportunities;*
- (3) *Conduct an assessment of any private business that applies to partner with PIECPs;*
- (4) *Review any information provided to the commission by companies, organized labor, the Department of Corrections, or any agency of state government in regard to:*
 - (a) *Potential job displacements relating to PIECPs;*
 - (b) *Appropriate leased-labor pay rates for proposed business participants;*
 - (c) *Opportunities to partner with businesses;*
 - (d) *Reduction in the rate of recidivism; and*
 - (e) *Business plans presented to the commission;*
- (5) *Provide technical assistance and support to potential partners;*
- (6) *Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly, which shall include at least the following information:*
 - (a) *The status of the implementation of the statewide strategic plan;*
 - (b) *The effectiveness of the commission in achieving the goals outlined in this section; and*
 - (c) *An accounting of the distribution of profits and losses for the fiscal year;*
- (7) *Advise the Governor and the commissioner concerning PIECPs' policies and programs, including particularly the following:*
 - (a) *The need for, and the development of, new or specialized facilities or programs;*

- (b) *The need for, and the effectuation of, collaboration and liaison within the department and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions; and*
- (c) *The need for, and the development of, useful research in development of PIECPs; and*
- (8) *Promulgate administrative regulations in accordance with KRS Chapter 13A for businesses and the operating procedures of the Kentucky State Corrections Commission, and the procedures for addressing the handling of injury to inmates participating in the PIECPs, such as workers' compensation insurance or another program.*

➔Section 29. KRS 335B.010 is amended to read as follows:

As used in KRS 335B.020 to 335B.070, unless the context requires otherwise:

- (1) "Occupation" includes all occupations, trades, vocations, professions, businesses, or employment of any kind for which a license is required to be issued by the Commonwealth of Kentucky, its agencies, or political subdivisions.
- (2) "License" includes all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the Commonwealth of Kentucky, its agents or political subdivisions before a person can pursue, practice, or engage in any occupation.
- (3) "Public employment" includes all employment with the Commonwealth of Kentucky, its agencies, or political subdivisions.
- (4) "Conviction of *a* crime" shall be limited to convictions of felonies *or* ~~high misdemeanors, and~~ misdemeanors ~~for which a jail sentence may be imposed. No other criminal conviction shall be considered unless moral turpitude is involved.~~
- (5) "Hiring or licensing authority" shall mean the person, board, commission, or department of the Commonwealth of Kentucky, its agencies or political subdivisions, responsible by law for the hiring of persons for public employment or the licensing of persons for occupations.

➔Section 30. KRS 335B.020 is amended to read as follows:

- (1) No person shall be disqualified from public employment, nor shall a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely because of a prior conviction of a crime, unless the crime for which convicted ~~is one described in KRS 335B.010(4) or otherwise~~ directly relates to the position of employment sought or the occupation for which the license is sought.
- (2) In determining if a conviction directly relates to the position of public employment sought or the occupation for which the license is sought, the hiring or licensing authority shall consider:
 - (a) The nature and seriousness of the crime for which the individual was convicted *and the passage of time since its commission*;
 - (b) The relationship of the crime to the purposes of regulating the position of public employment sought or the occupation for which the license is sought;
 - (c) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation. {
- ~~(3) Nothing in KRS 335B.020 to 335B.070 shall be construed so as to limit the power of the hiring or licensing authority to determine that an individual shall be entitled to public employment or a license regardless of that individual's conviction if the hiring or licensing authority determines that the individual has been successfully rehabilitated. }~~

➔Section 31. KRS 335B.030 is amended to read as follows:

- (1) (a) If a hiring or licensing authority denies an individual a position of public employment ~~or disqualifies the individual from pursuing, practicing, or engaging in any occupation for which a license is required,~~ solely because of the individual's prior conviction of a crime, the hiring or licensing authority shall notify the individual in writing of the following:
 - 1. ~~(a)~~ The grounds and reasons for the denial or disqualification;
 - 2. ~~(b)~~ That the individual has the right to a hearing conducted in accordance with KRS Chapter 13B, if written request for hearing is made within ten (10) days after service of notice;

3.~~(c)~~ The earliest date the person may reapply for a position of public employment or a license; and

4.~~(d)~~ That evidence of rehabilitation may be considered upon reapplication.

(b)~~(2)~~ Any party aggrieved by a final order issued by a hiring or licensing authority after a hearing *under this subsection* may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

(2) (a) *Except as provided in paragraph (b) of this subsection, a hiring or licensing authority shall not disqualify an individual from pursuing, practicing, or engaging in any occupation for which a license is required solely because of the individual's prior conviction of a crime, unless the authority provides the individual with a written notice that the authority has determined that the prior conviction may disqualify the person, demonstrates the connection between the prior conviction and the license being sought, and affords the individual an opportunity to be personally heard before the board prior to the board making a decision on whether to disqualify the individual. If the license is denied after the person was heard, the hiring or licensing authority shall notify the individual in writing of the following:*

1. *The grounds and reasons for the denial or disqualification;*

2. *That the individual has the right to a hearing conducted in accordance with KRS Chapter 13B, if a written request for hearing is made within ten (10) days after service of notice;*

3. *The earliest date the person may reapply for a license; and*

4. *That evidence of rehabilitation may be considered upon reapplication.*

(b) *If an individual's prior conviction was for a Class A felony, a Class B felony, or any felony offense that would qualify the individual as a registrant pursuant to KRS 17.500, there shall be a rebuttable presumption that a connection exists between the prior conviction and the license being sought.*

(c) *Any party aggrieved by a final order issued by a hiring or licensing authority after a hearing under this subsection may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.*

(3) *Except as provided in subsection (2)(b) of this section, in any administrative hearing or civil litigation authorized under this section, the hiring or licensing authority shall carry the burden of proof on the question of whether the prior conviction directly relates to the position of employment sought or the occupation for which the license is sought.*

➔Section 32. KRS 335B.060 is repealed, reenacted, and amended to read as follows:

Except for peace officers and other law enforcement personnel and unless preempted by federal law, the provisions of KRS 335B.020 to 335B.070 shall prevail over any other laws, rules and regulations which purport to govern the granting, denial, renewal, suspension, or revocation of a license or the initiation, suspension, or termination of public employment on the grounds of conviction of a crime or crimes.

➔Section 33. The following KRS section is repealed:

335B.040 Denial of license on ground of absence of good moral character.

➔Section 34. KRS 164.6911 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, the office shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) or whose application has been accepted under KRS 164.6909(2).

(2) The office may refuse to issue a certificate of registration if the office determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the office may consider whether the applicant has:

(a) Been convicted of a crime *as defined in Section 29 of this Act* that *directly relates to being an athlete agent*~~, if committed in this state, would be a crime involving moral turpitude or a felony~~;

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) Engaged in conduct prohibited by KRS 164.6925;

- (e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;
 - (f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
 - (g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
- (3) In making a determination under subsection (2) of this section, the office shall consider:
- (a) How recently the conduct occurred;
 - (b) The nature of the conduct and the context in which it occurred;~~[-and]~~
 - (c) ***The provisions of KRS Chapter 335B, if applicable; and***
 - (d) Any other relevant conduct of the applicant.
- (4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the office. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.
- (5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The office shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:
- (a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
- (6) A certificate of registration or a renewal of registration is valid for one (1) year.
- ➔Section 35. KRS 165A.475 is amended to read as follows:
- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the commission on forms prepared and furnished by the commission. The application shall include the following information:
- (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
 - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license~~[-, and are each of good moral character];~~
 - (c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;
 - (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the commission. Upon request by an applicant, the commission shall review an application and provide a letter to the applicant that a proposed CDL driver

training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.

- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.
- (3) The commission shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the commission shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the commission prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the commission on forms prepared and furnished by the commission setting forth that the applicant is twenty-one (21) years of age or older; ~~is of good moral character;~~ is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.
- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.
- (7) In making the determination ~~of whether to issue a license~~~~good moral character~~ under this section, the commission shall consider but shall not be limited to the following:
 - (a) If the applicant has been convicted of a crime *as defined in Section 29 of this Act*;
 - (b) The age of the applicant at the time any criminal conviction was entered;
 - (c) The length of time that has elapsed since the applicant's last criminal conviction;~~and~~
 - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school *or to act as a CDL driver training instructor; and*
 - (e) *The provisions of KRS Chapter 335B.*

➔Section 36. KRS 198B.672 is amended to read as follows:

Subject to a hearing conducted in accordance with KRS Chapter 13B, the board may revoke, suspend, place on probation, or restrict the license or certificate of any licensee or certificate holder; refuse to issue or renew a license or certificate; or reprimand, censure, or fine a licensee or certificate holder for any of the following reasons:

- (1) Fraud or deceit in obtaining licensure or certification;
- (2) Transfer of the authority granted by the license or certificate to another person;
- (3) Unfair or deceptive trade practices;
- (4) Willful or deliberate disregard and violation of building codes, electrical codes, or related laws and ordinances of this Commonwealth or any city, county, or urban-county government;
- (5) Aiding or abetting any person attempting to evade the provisions of KRS 198B.650 to 198B.689;

- (6) Conspiracy or knowingly combining with any person, to allow a license or certificate to be used by an unlicensed or uncertified person, firm, or corporation with intent to evade the provisions of KRS 198B.650 to 198B.689. Allowing a license or certificate to be used by more than one (1) person shall be prima facie evidence of intent to evade the provisions of KRS 198B.650 to 198B.689;
- (7) Willful or deliberate disregard of disciplinary actions taken by the board, or of a city, county, or urban-county government;
- (8) Negligence or incompetence in compliance with applicable codes and standards of practice;
- (9) Violation of any of the provisions of KRS 198B.650 to 198B.689 or any administrative regulation promulgated by the board; or
- (10) Conviction of a ~~[felony or of any]~~ crime **as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B**~~[an element of which is dishonesty or fraud, under the laws of any state or of the United States].~~

➔Section 37. KRS 211.9125 is amended to read as follows:

- (1) Subject to an administrative hearing conducted in accordance with KRS Chapter 13B, the cabinet may revoke, suspend, or restrict the certificate of a certificate holder, refuse to issue or renew certification, reprimand, censure, place on probation, or impose a fine not to exceed five hundred dollars (\$500) on a person who:
 - (a) Has been convicted of a felony under the laws of the Commonwealth of any crime that involves theft or dishonesty, or is a sex crime as defined by KRS 17.500, **if in accordance with KRS Chapter 335B**;
 - (b) Has had disciplinary action taken against a professional license, certification, registration, or permit held by the person seeking certification;
 - (c) Engaged in fraud or deceit in obtaining certification;
 - (d) Attempts to transfer the authority granted by the certificate to another person;
 - (e) Disregards or violates the building codes, electrical codes, or related laws of this Commonwealth or ordinances of any city, county, urban-county government, consolidated local government, charter county government, or unified local government;
 - (f) Aids or abets any person attempting to evade the provisions of KRS 211.9101 to 211.9135 or the administrative regulations promulgated thereunder by the cabinet;
 - (g) Uses unfair or deceptive trade practices; or
 - (h) Knowingly violates any of the provisions of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.
- (2) If an application for certification or renewal of certification is denied, the person seeking certification shall not conduct radon measurement, mitigation, or laboratory analysis within the Commonwealth of Kentucky.
- (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the cabinet may institute proceedings in the Circuit Court of the county where the person resides for an order enjoining the person from engaging or attempting to engage in activities that violate any provisions of KRS 211.9101 to 211.9135 or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.
- (4) Any final order of the cabinet may be appealed to the Circuit Court of the county in which the person resides after a written decision is rendered in accordance with KRS Chapter 13B.

➔Section 38. KRS 216A.080 is amended to read as follows:

- (1) No person shall be eligible to practice long-term care administration in this state unless:
 - (a) He or she shall make written application to the board on such forms as are provided therefor;
 - (b) He or she is a citizen of the United States or has declared his or her intent to become a citizen of the United States;
 - (c) He or she provides proof satisfactory to the board that he or she is of good moral character and is otherwise suitable, **if in accordance with KRS Chapter 335B**;

- (d) He or she has passed an examination approved by the board by promulgation of an administrative regulation; and
 - (e) He or she meets such other requirements as may be established by the board by promulgation of an administrative regulation, so long as the requirements are uniform and are applied to all other applicants for a license.
- (2) When an applicant has met the requirements as provided herein, the board shall issue the applicant a license to practice long-term care administration in this state.

➔Section 39. KRS 227.630 is amended to read as follows:

- (1) A license, certification, or certificate of acceptability may be denied, suspended, or revoked on the following grounds:
- (a) A showing of insolvency in a court of competent jurisdiction;
 - (b) Material misstatement in application for license, certification, or certificate of acceptability;
 - (c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or any rule or regulation promulgated by the board under KRS 227.550 to 227.660;
 - (d) Willfully defrauding any buyer;
 - (e) Willful failure to perform any written agreement with any buyer or retailer;
 - (f) Failure to have or to maintain an established place of business;
 - (g) Failure to furnish or maintain the required insurance;
 - (h) Making a fraudulent sale, transaction, or repossession;
 - (i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;
 - (j) Failure by a retailer to put the title to a manufactured home, mobile home, or recreational vehicle in his name after said retailer has acquired ownership of the manufactured home, mobile home, or recreational vehicle by trade or otherwise;
 - (k) Violation of any law relating to the sale or financing of manufactured homes, mobile homes, or recreational vehicles, *if in accordance with KRS Chapter 335B*.
- (2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his or her salespersons while acting as his agent while the said agent is acting within the scope of his authority.
- (3) Upon proceedings for the suspension of a license, certification, or certificate of acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day. Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

➔Section 40. KRS 229.200 is amended to read as follows:

- (1) The authority may suspend, reprimand, revoke, probate, or refuse to renew or issue a license for the following reasons: that the licensee or applicant has, in the judgment of the authority, been guilty of an act detrimental to the interests of boxing, kickboxing, mixed martial arts, or wrestling generally or to the public interest, convenience, or necessity, including, but not by way of limitation, the violation of any of the provisions of this chapter or any rule or administrative regulation of the authority.
- (2) *If in accordance with KRS Chapter 335B*, the authority may suspend, reprimand, revoke, probate, or refuse to renew or issue a license if it finds that the applicant, or any person who is a partner, agent, employee, stockholder, or associate of the applicant, has been convicted of a crime *as defined in Section 29 of this Act* ~~in any jurisdiction~~, or is associating or consorting with any person who has or persons who have been convicted of a crime *as defined in Section 29 of this Act* ~~for crimes in any jurisdiction or jurisdictions~~, or is consorting or associating with or has consorted or associated with bookmakers, gamblers, or persons of similar pursuits,

or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with boxing, kickboxing, mixed martial arts, or wrestling, or has violated or attempted to violate any law with respect to boxing, kickboxing, mixed martial arts, or wrestling in any jurisdiction or any rule, regulation, or order of the authority, or shall have violated any rule of boxing, kickboxing, mixed martial arts, or wrestling which shall have been approved or adopted by the authority, or has been guilty of or engaged in similar, related, or like practices.

- (3) (a) The authority may suspend, reprimand, revoke, probate, or refuse to renew or issue a license to protect the health of the licensee, upon notification of the suspension or revocation of the license of a licensee in another state or jurisdiction.
- (b) Upon proceedings for the revocation of any license under KRS 229.081, the authority may, in its discretion, order a suspension of the license. However, the licensee may have the alternative, subject to the approval of the authority, to pay in lieu of part or all of the days of any suspension period a sum not in excess of five hundred dollars (\$500).

➔Section 41. KRS 309.086 is amended to read as follows:

- (1) The board may revoke, suspend, place on probation, or restrict the license, certificate, or registration of a licensee, certificate holder, or registrant; refuse to issue or renew a license, certificate, or registration; and reprimand, admonish, or fine a licensee, certificate holder, or registrant for the following:
 - (a) Fraud or deceit in obtaining licensure, certification, or registration;
 - (b) Transferring the authority granted by the license, certificate, or registration to another person;
 - (c) Using unfair, false, misleading, or deceptive trade practices;
 - (d) Willfully or deliberately disregarding professional standards of practice or violating the code of ethics;
 - (e) Aiding and abetting a person who obtains a license, certificate, or registration fraudulently;
 - (f) Conspiring or combining with others to obtain a license, certificate, or registration to be used by an unlicensed, uncertified, or unregistered person with the intent to evade the provisions of KRS 309.080 to 309.089 and administrative regulations promulgated pursuant to those sections;
 - (g) Negligence or incompetence in complying with the applicable code of ethics and standards of practice or failure to comply with continuing education requirements;
 - (h) Violating KRS 309.080 to 309.089 and administrative regulations promulgated pursuant to those sections; or
 - (i) Being convicted of any ~~[felony or any other]~~ crime ***as defined in Section 29 of this Act*** in which an element of the crime is dishonesty or fraud, ~~[under the laws of any state or the United States]~~ within the past three (3) years, ***if in accordance with KRS Chapter 335B.***
- (2) The board shall, upon the request of a licensed clinical alcohol and drug counselor, certified alcohol and drug counselor, or registered alcohol and drug peer support specialist, or an applicant for licensure, certification, or registration, hold a hearing pursuant to KRS Chapter 13B before denying an application; refusing to renew a license, certificate, or registration; suspending a license, certificate, or registration; or imposing a fine. The affected party may appeal the board's decision in the Circuit Court where the licensee, certificate holder, or registrant resides. The action of the board shall remain in effect pending any appeals unless the board rescinds or modifies its order.

➔Section 42. KRS 309.137 is amended to read as follows:

- (1) The board may refuse to issue a license or may deny any application, or suspend, or revoke, impose probationary conditions upon, issue a written reprimand or admonishment, or perform any combination thereof regarding any license held or applied for under the provisions of KRS 309.133 if the person:
 - (a) Is found guilty of fraud, deceit, or misrepresentation in procuring or renewing or attempting to procure or renew a license to practice art therapy;
 - (b) Committed any unfair, false, misleading, or deceptive act or practice;
 - (c) Has been negligent in the practice of art therapy;
 - (d) Is adjudicated mentally incompetent;

- (e) Is found guilty of a ***crime as defined in Section 29 of this Act***~~[felony or misdemeanor]~~ involving sexual misconduct or ~~a crime~~ where dishonesty is a necessary element, ***if in accordance with KRS Chapter 335B***. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (f) Is found guilty of unprofessional or unethical conduct in this or any other jurisdiction;
 - (g) Has been using any controlled substance or alcoholic beverage to an extent or in a manner dangerous to the person, any other person, or the public, or to an extent that the use impairs the ability to perform as a licensed professional art therapist;
 - (h) Has violated any provision of KRS 309.130 to 309.1399 or administrative regulations promulgated thereunder;
 - (i) Failed to comply with an order issued by the board or an assurance of voluntary compliance; or
 - (j) Willfully or negligently divulges a professional confidence.
- (2) A certified copy of the record of conviction shall be conclusive evidence of the conviction.
 - (3) Disciplinary proceedings may be initiated upon the receipt by the board of a sworn complaint by any person, including members of the board.
 - (4) Two (2) years from the date of revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the licensee if the board finds that the individual has complied with any terms prescribed by the board and is able to competently engage in the practice of art therapy.
 - (5) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for a hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for a hearing under KRS Chapter 13B.
 - (6) The surrender of a license shall not deprive the board of its jurisdiction to proceed with disciplinary actions authorized under KRS 309.130 to 309.1399.
- ➔Section 43. KRS 309.318 is amended to read as follows:
- (1) The board may refuse to issue a license or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee has:
 - (a) Been convicted of a crime as described in KRS 335B.010(4)~~[or an offense]~~ that ~~[otherwise]~~ directly relates to the occupation of interpreter, ***if in accordance with KRS Chapter 335B***. A plea of "no contest" may be treated as a conviction for purposes of disciplinary action;
 - (b) Knowingly misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;
 - (c) Committed any fraudulent act or practice;
 - (d) Been incompetent or negligent in the practice of interpreting;
 - (e) Violated any state statute or administrative regulation governing the practice of interpreting;
 - (f) Violated the code of ethics of the national organization issuing the licensee's certification as incorporated in administrative regulation; or
 - (g) Violated any federal or state law considered by the board to be applicable to the practice of interpreting.
 - (2) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.
 - (3) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee which effectively deals with the complaint.
 - (4) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary action.

- (5) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of interpreting.
- (6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

➔Section 44. KRS 309.339 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
 - (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
 - (b) Being convicted of a felony in any court if any act for which the licensee or applicant for license was convicted is determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed diabetes educator, ***if in accordance with KRS Chapter 335B.*** "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
 - (c) Violating any lawful order or administrative regulation promulgated by the board;
 - (d) Violating any provision of KRS 309.325 to 309.339 or administrative regulation promulgated by the board;
 - (e) Evidence of gross negligence or gross incompetence in the practice of diabetes education; and
 - (f) Violating the standards of practice or the code of ethics as promulgated by administrative regulations.
- (2) All administrative hearings for the disciplinary action against a license or certificate holder shall be conducted in accordance with KRS Chapter 13B.

➔Section 45. KRS 309.362 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
 - (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
 - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist, ***if in accordance with KRS Chapter 335B.*** "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
 - (c) Violating any lawful order or administrative regulation promulgated by the board;
 - (d) Violating any provision of this chapter or administrative regulations promulgated thereunder;
 - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;
 - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner;
 - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy; or
 - (h) Violating the standards of practice or the code of ethics as promulgated by administrative regulations.
- (2) Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not

entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.

- (3) To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education may be approved at the discretion of the board. Beyond five (5) years, the licensee shall meet the requirements in KRS 309.358.
- (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.
- (5) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

➔Section 46. KRS 309.418 is amended to read as follows:

- (1) ***If in accordance with KRS Chapter 335B***, the board shall refuse to license, or shall suspend a license, if the person seeking or holding a license has ever been convicted of or entered an Alford plea or plea of nolo contendere to a sex crime as defined in KRS 17.500, a criminal offense against a victim who is a minor as defined in KRS 17.500, a felony offense under KRS Chapter 209, or an offense which would classify the person as a violent offender under KRS 439.3401.
- (2) The board may refuse to issue or renew a license, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, for the following reasons:
 - (a) Unprofessional or unethical conduct;
 - (b) Mental or physical incapacity that prevents the licensee from engaging or assisting in the provision of home medical equipment and services with reasonable skill, competence, and safety to the public;
 - (c) Being convicted of or entering an Alford plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following, ***if in accordance with KRS Chapter 335B***:
 1. ~~A crime as defined in Section 29 of this Act~~~~[felony]~~;
 2. ~~An act involving gross immorality~~; or
 - 2.~~[3.]~~ A violation of the home medical equipment laws, rules, or administrative regulations of this state, any other state, or the federal government;
 - (d) Knowing or having reason to know that a home medical equipment and services provider is incapable of engaging or assisting in the practice of providing home medical equipment and services with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
 - (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license;
 - (f) Engaging in fraud in connection with the practice of the provision of home medical equipment and services;
 - (g) Engaging in or aiding and abetting an individual to engage or assist in the provision of home medical equipment and services without a license or falsely using the title "home medical equipment and services provider," "provider," or other term which might imply that the individual is a home medical equipment and services provider; or
 - (h) Violation of any order issued by the board to comply with any applicable law or administrative regulation.
- (3) As used in this section, "unprofessional or unethical conduct" includes but is not limited to the following acts of a home medical equipment and services provider:
 - (a) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a sick or disabled person, or engaging in conduct which substantially departs from accepted standards of providing home medical equipment and services

ordinarily exercised by a home medical equipment and services provider, with or without established proof of actual injury;

- (b) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;
 - (c) Obtaining any remuneration by fraud, misrepresentation, or deception;
 - (d) Providing home medical equipment and services that carry a legend or require a prescription without a medical order from a licensed health care practitioner; or
 - (e) Willfully or knowingly failing to maintain complete and accurate records of home medical equipment and services provided in compliance with federal and state laws, rules, or administrative regulations.
- (4) Any licensee who is found guilty of or enters an Alford plea or plea of nolo contendere to a violation prescribed in subsection (1) or (2)(c) of this section shall, within thirty (30) days, notify the board of that conviction or plea. Failure to do so shall be grounds for suspension or revocation of the license.
- (5) Any person whose license has been revoked in accordance with this section, other than a person whose license was revoked for being convicted of or entering an Alford plea or plea of nolo contendere to a sex crime as defined in KRS 17.500, a criminal offense against a victim who is a minor as defined in KRS 17.500, a felony offense under KRS Chapter 209, or an offense which would classify the person as a violent offender under KRS 439.3401, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and may reinstate a license upon a showing that the former holder has been rehabilitated and is again able to engage in the practice of providing home medical equipment and services with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.
- (6) Upon exercising the power of revocation provided for in subsection (2) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.
- (7) (a) A licensee who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's permanent record.
- (b) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee has completed disciplinary sanctions imposed and if the licensee has not been disciplined for any subsequent violation of the same nature within this period of time.
- (c) A person shall not have his or her record expunged under this section more than once.
- (d) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish what are considered minor violations under this subsection. A violation shall be deemed a minor violation if it does not:
1. Demonstrate a serious inability to practice the profession;
 2. Involve the provisions of home medical equipment and services;
 3. Adversely affect the public health, safety, or welfare;
 4. Result in economic or physical harm to a person; or
 5. Create a significant threat of such harm.

➔Section 47. KRS 310.042 is amended to read as follows:

- (1) The board may deny or refuse to renew a license or certificate, suspend or revoke a license or certificate, or issue orders to cease and desist from certain conduct or to otherwise discipline an applicant, a licensee, a certificate holder, or a person found guilty of violating any provisions of this chapter, if that person has:
- (a) Attempted to or obtained licensure or certification by fraud or misrepresentation;
 - (b) Engaged in habitual intoxication or unprofessional conduct, including, but not limited to, willful acts of negligence or a pattern of continued and repeated malpractice, negligence, or incompetence in the course of professional practice;
 - (c) Engaged in habitual intoxication or personal misuse of any drug, narcotics, or controlled substances so as to adversely affect his ability to practice;

- (d) Been convicted of a *crime as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B*~~[felony or any offense under state and federal laws involving moral turpitude]~~;
 - (e) Violated any lawful order or ruling of the board or any administrative regulation promulgated by the board; or
 - (f) Violated any provisions of this chapter.
- (2) All administrative hearings for the disciplinary action against a license or certificate holder shall be conducted in accordance with KRS Chapter 13B.

➔Section 48. KRS 311.480 is amended to read as follows:

The board may refuse to license or renew, or may suspend, probate or revoke the license of any podiatrist or in addition to such punishment or in lieu thereof may impose a fine not to exceed five hundred dollars (\$500) for each offense, upon proof that he:

- (1) Has been convicted of a felony, *if in accordance with KRS Chapter 335B*;
- (2) Has been convicted of a misdemeanor, *if in accordance with KRS Chapter 335B*~~[involving moral turpitude or conduct likely to deceive or defraud the public]~~;
- (3) Has employed, hired, procured or induced a person not licensed to practice podiatry in this state so to practice;
- (4) Has aided or abetted in the practice of podiatry a person not licensed to practice podiatry in this state;
- (5) Has been granted a license upon a mistake of a material fact;
- (6) Has violated any provision of KRS 311.390 to 311.510;
- (7) Has become drug addicted;
- (8) Has become a chronic or persistent alcoholic;
- (9) Has developed such physical or mental disability, or other condition whereby continued practice is dangerous to patients or to the public;
- (10) Has violated any order of suspension, or the terms or the conditions of any order of probation, issued by the board;
- (11) Has engaged in, or attempted to engage in the practice of podiatry under a false or assumed name;
- (12) Has willfully violated a confidential communication;
- (13) Has acted in a grossly negligent or willful manner which is inconsistent with the practice of podiatry;
- (14) Is unfit or incompetent to practice podiatry by reason of gross negligence or other causes including but not limited to being unable to practice podiatry with reasonable skill or safety;
- (15) Has a license to practice as a podiatrist denied, limited, suspended, probated or revoked in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated or revoked in this Commonwealth; or
- (16) Has engaged in conduct likely to deceive or defraud the public.

➔Section 49. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or reregistration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

- (1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;
- (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;
- (3) Committed, procured, or aided in the procurement of an unlawful abortion, including a partial-birth abortion;
- (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky *of a crime as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B*~~[or of~~

~~committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor under the laws;~~

- (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;
- (6) Become addicted to a controlled substance;
- (7) Become a chronic or persistent alcoholic;
- (8) Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine;
- (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;
- (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;
- (11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;
- (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;
- (13) Violated any agreed order, letter of agreement, final order, or emergency order issued by the board;
- (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;
- (15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;
- (16) Willfully violated a confidential communication;
- (17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;
- (18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;
- (19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;
- (20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; or

- (21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action.

➔Section 50. KRS 311.674 is amended to read as follows:

- (1) To be licensed by the board as an acupuncturist, an applicant shall:
- (a) Submit an application approved by the board, with all sections completed, with the required fee;
 - (b) Be of good character and reputation, *if in accordance with KRS Chapter 335B*;
 - (c) Have achieved a passing score on the acupuncture examination administered by the National Commission for Certification of Acupuncture and Oriental Medicine; and
 - (d) Have graduated from a course of training of at least one thousand eight hundred (1,800) hours, including three hundred (300) clinical hours, that is approved by the Accreditation Commission for Acupuncture and Oriental Medicine.

All provisions of this subsection, including graduation from an approved course of training as specified in paragraph (d) of this subsection, must be met by all applicants before initial licensure as an acupuncturist may be granted.

- (2) An acupuncturist who is legally authorized to practice acupuncture in another state and who is presently in good standing in that other state may be licensed by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.
- (3) The board may request any reasonable information from the applicant and from collateral sources that is necessary for the board to make an informed decision. The applicant will execute any necessary waiver or release so that the board may obtain necessary information from collateral sources. An application will be considered completed when the applicant has fully answered all sections of the approved application and the board has received all necessary additional information from the applicant and collateral sources.
- (4) An acupuncturist's license shall be renewed every two (2) years upon fulfillment of the following requirements:
- (a) The applicant has submitted a renewal application approved by the board within the time specified, with all sections completed, with the required fee; and
 - (b) The applicant is of good character and reputation.
- (5) The board shall notify each applicant in writing of the action it takes on an application within one hundred twenty (120) days following the board's receipt of a completed application.
- (6) Notwithstanding any of the requirements for licensure established in this section, and after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provision of this section or is otherwise unfit to practice. If the board denies an application, it shall notify the applicant of the grounds on which the denial is based. Orders denying a license may be appealed pursuant to KRS 311.593.

➔Section 51. KRS 311.850 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license of a physician assistant, or may fine, reprimand or place a physician assistant on probation for no more than five (5) years upon proof that a physician assistant has:
- (a) Knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for licensure;
 - (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for licensure;
 - (c) Been convicted *of a crime as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B* ~~[by any court of a misdemeanor offense involving moral turpitude or been convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States];~~

- (d) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;
 - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel;
 - (f) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;
 - (g) Performed any act or service as a physician assistant without a designated supervising physician;
 - (h) Exceeded the scope of medical services described by the supervising physician in the applications required under KRS 311.854;
 - (i) Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under KRS 311.856 and 311.858;
 - (j) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art, including the unlawful practice of physician assistants;
 - (k) Willfully violated a confidential communication;
 - (l) Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;
 - (m) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of this section or KRS 311.858 or 311.862;
 - (n) Violated any applicable provision of administrative regulations relating to physician assistant practice;
 - (o) Violated any term of probation or other discipline imposed by the board; or
 - (p) Failed to complete the required number of hours of approved continuing education.
- (2) All disciplinary proceedings against a physician assistant shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and KRS Chapter 13B and related administrative regulations promulgated under KRS Chapter 311.

➔Section 52. KRS 311.890 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the certification of a surgical assistant, or may fine, reprimand, or place a surgical assistant on probation for no more than five (5) years upon proof that he or she:
 - (a) Has been convicted of a felony, *if in accordance with KRS Chapter 335B*;
 - (b) Has been convicted of a misdemeanor, *if in accordance with KRS Chapter 335B*~~involving moral turpitude or conduct likely to deceive or defraud the public~~;
 - (c) Has been granted a certificate upon a mistake of a material fact;
 - (d) Has violated any provision of KRS 311.864 to 311.890;
 - (e) Has become drug addicted;
 - (f) Has become a chronic or persistent alcoholic;
 - (g) Has developed such physical or mental disability, or other condition whereby continued practice is dangerous to patients or to the public;
 - (h) Has violated any order or the terms or the conditions of any order issued by the board;
 - (i) Has engaged in, or attempted to engage in, practice as a surgical assistant under a false or assumed name;
 - (j) Has willfully violated a confidential communication;
 - (k) Has acted in a grossly negligent or willful manner which is inconsistent with practice as a surgical assistant;

- (l) Is unfit or incompetent to practice as a surgical assistant by reason of gross negligence or other causes, including but not limited to being unable to practice as a surgical assistant with reasonable skill or safety;
 - (m) Has had a license or certificate to practice as a surgical assistant denied, limited, suspended, probated, or revoked in another jurisdiction;
 - (n) Has engaged in conduct likely to deceive or defraud the public;
 - (o) Has knowingly made or presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for certification;
 - (p) Has exceeded the scope of practice of surgical assisting delegated by the delegating physician; or
 - (q) Has exceeded the scope of practice for which the surgical assistant was credentialed by the governing board of a hospital or licensed health care facility.
- (2) The board may impose a fine of up to five hundred dollars (\$500) per violation as part of a disciplinary action and may require the surgical assistant to reimburse the board for all costs of the proceedings.

➔Section 53. KRS 311.909 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license of an athletic trainer or may impose fines of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per violation, including the costs of any proceedings; reprimand; or place an athletic trainer on probation for no more than five (5) years upon proof that the athletic trainer:
- (a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for licensure or renewal thereof;
 - (b) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for licensure;
 - (c) Has been convicted ***of a crime as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B***~~[by any court of a misdemeanor offense involving moral turpitude or convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States];~~
 - (d) Has become addicted to or is an abuser of alcohol, drugs, or any illegal substances;
 - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to provide athletic training services to patients, the public, or other health-care personnel;
 - (f) Knowingly made, caused to be made, or aided or abetted in the making of a false statement in any document executed in connection with the practice of athletic training;
 - (g) Performed any act or service as an athletic trainer without proper supervision by a licensed physician;
 - (h) Exceeded the scope of medical services or procedures described by the supervising physician in the application required under KRS 311.903;
 - (i) Aided, assisted, or abetted another in the unlawful practice of medicine, osteopathy, chiropractics, or any healing art, including the unlawful practice of athletic training;
 - (j) Willfully violated a confidential communication;
 - (k) Performed the services of an athletic trainer in an unprofessional, incompetent, or grossly or chronically negligent manner;
 - (l) Has been removed, suspended, expelled, or placed on probation by any health-care facility for unprofessional conduct, incompetence, negligence, or violation of any provision of KRS 311.900 to 311.928;
 - (m) Violated any applicable provision of an administrative regulation relating to athletic training practice;
 - (n) Violated any term of probation or other disciplinary order issued by the board or an agreed order defined in KRS 311.550;
 - (o) Failed to complete the required number of hours of approved continuing education; or

- (p) Willfully violated any provision of KRS 311.900 to 311.928 or acted outside of the licensed athletic trainer's scope of practice.
- (2) All disciplinary proceedings against an athletic trainer shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, and 311.599; KRS Chapter 13B; and any related administrative regulations promulgated under KRS Chapter 311, except that the provisions which apply to physicians shall apply to athletic trainers.
- (3) Notwithstanding any of the requirements for licensure established by KRS 311.900 to 311.928, the board, after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard, may deny licensure to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provisions of KRS 311.900 to 311.928 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.
- (4) The board may impose restrictions on the scope of practice of an athletic trainer after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard. The Athletic Trainers Advisory Council may make recommendations on such restrictions.
- (5) The provisions of this chapter shall not be construed as preventing or restricting the practices, services, or activities of a person licensed in accordance with the provisions of another law of the Commonwealth from engaging in the profession or occupation for which he or she is licensed.

➔Section 54. KRS 311A.050 is amended to read as follows:

- (1) No person shall:
 - (a) Call or hold himself or herself out as or use the title of emergency medical technician, first responder, paramedic, first responder instructor or instructor trainer, emergency medical technician instructor or instructor trainer, or paramedic instructor, paramedic instructor trainer, or paramedic course coordinator unless licensed or certified under the provisions of this chapter. The provisions of this subsection shall not apply if the board does not license or certify a person as an instructor, instructor trainer, or course coordinator in a particular discipline regulated by the board;
 - (b) Operate or offer to operate or represent or advertise the operation of a school or other educational program for first responders, emergency medical technicians, paramedics, or instructors or instructor trainers for first responders, emergency medical technicians, or paramedics unless the school or educational program has been approved under the provisions of this chapter. The provisions of this paragraph shall not apply to continuing education provided by a licensed ambulance service for anyone certified or licensed by the board given by an ambulance service for its employees or volunteers; or
 - (c) Knowingly employ a first responder, emergency medical technician, paramedic, or an instructor or instructor trainer for first responders, emergency medical technicians, or paramedics, or paramedic course coordinator unless that person is licensed or certified under the provisions of this chapter.
- (2) No person licensed or certified by the board or who is an applicant for licensure or certification by the board shall:
 - (a) If licensed or certified, violate any provision of this chapter or any administrative regulation promulgated by the board;
 - (b) Use fraud or deceit in obtaining or attempting to obtain a license or certification from the board, or be granted a license upon mistake of a material fact;
 - (c) If licensed or certified by the board, grossly negligently or willfully act in a manner inconsistent with the practice of the discipline for which the person is certified or licensed;
 - (d) Be unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes;
 - (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others;
 - (f) Falsify or fail to make essential entries on essential records;
 - (g) Be convicted of a misdemeanor which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, *if in accordance with KRS Chapter 335B*;

- (h) Be convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts that bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or certification held or sought, *if in accordance with KRS Chapter 335B*;
 - (i) Be convicted of a misdemeanor offense under KRS Chapter 510 involving a patient or be found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the licensee or certificate holder;
 - (j) Have had his or her license or credential to practice as a nurse or physician denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (k) Have a license or certification to practice in any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (l) Violate any lawful order or directive previously entered by the board;
 - (m) Have been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or
 - (n) Be convicted of, have entered a guilty plea to, have entered an Alford plea to a felony offense, or completed a diversion program for a felony offense, *if in accordance with KRS Chapter 335B*.
- (3) It shall be unlawful for an employer of a person licensed or certified by the board having knowledge of the facts to refrain from reporting to the board any person licensed or certified by the board who:
- (a) Has been convicted of, has entered a guilty plea to, has entered an Alford plea to a felony offense, or has completed a diversion program for a felony offense;
 - (b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which they are an applicant, licensee, or certified person;
 - (c) Is reasonably suspected of fraud or deceit in procuring or attempting to procure a license or certification from the board;
 - (d) Is reasonably suspected of grossly negligently or willfully acting in a manner inconsistent with the practice of the discipline for which they are certified or licensed;
 - (e) Is reasonably suspected of being unfit or incompetent to practice a discipline regulated by the board by reason of negligence or other causes, including but not limited to being unable to practice the discipline for which they are licensed or certified with reasonable skill or safety;
 - (f) Is reasonably suspected of violating any provisions of this chapter or the administrative regulations promulgated under this chapter;
 - (g) Has a license or certification to practice an activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or certification to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (h) Is practicing an activity regulated by the board without a current active license or certification issued by the board;
 - (i) Is reasonably suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the licensee or certified person for administration or for use of others; or
 - (j) Is suspected of falsifying or in a grossly negligent manner making incorrect entries or failing to make essential entries on essential records.
- (4) A person who violates subsection (1)(a), (b), or (c) of this section shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for each subsequent offense.

- (5) The provisions of this section shall not preclude prosecution for the unlawful practice of medicine, nursing, or other practice certified or licensed by an agency of the Commonwealth.
- (6) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
- (7) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 55. KRS 311B.160 is amended to read as follows:

The board may deny, revoke, or suspend the license of an individual who:

- (1) Has engaged in conduct relating to his or her profession that is likely to deceive, defraud, or harm the public;
- (2) Has engaged in alcohol and other drug abuse as defined in KRS 222.005;
- (3) Develops a physical or mental disability or other condition that makes continued practice or performance of his or her duties potentially dangerous to patients or the public;
- (4) Performs procedures under or represents as valid to any person a license:
 - (a) Not issued by the board;
 - (b) Containing unauthorized alterations; or
 - (c) Containing changes that are inconsistent with board records regarding its issuance;
- (5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless the individual has had all civil rights restored, ***if in accordance with KRS Chapter 335B***;
- (6) Exhibits significant or repeated failure in the performance of professional duties; or
- (7) Fails to comply with any administrative regulation of the board.

➔Section 56. KRS 312.085 is amended to read as follows:

- (1) Any persons desiring to practice chiropractic in this state shall make application to the board, in the form and manner established by the board by the promulgation of administrative regulations. Each applicant shall have satisfactorily completed not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and Schools or other regional accrediting agencies as recognized by the United States Department of Education and the Council on Higher Education Accreditation, be a graduate of a college or university accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board.
- (2) The board may by administrative regulation require a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by administrative regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.
- (3) Applications shall be signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational experience, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation. ***If in accordance with KRS Chapter 335B***, no license shall be issued to any person convicted of a felony unless he has been pardoned and approved by the board.

➔Section 57. KRS 313.080 is amended to read as follows:

- (1) No person shall:

- (a) Call or hold himself out as or use the title dentist, dental specialist, dental hygienist, or dental assistant unless licensed or registered under the provisions of this chapter;
 - (b) Operate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by or employing individuals licensed by the board;
 - (c) Employ a dentist, dental hygienist, or dental assistant unless that person is licensed or registered under the provisions of this chapter; or
 - (d) Maintain any license or certificate authorized by this chapter if convicted of, having entered a guilty plea to, having entered an Alford plea to, or having completed a diversion program for a Class A, B, or C felony offense on or after the date of initial licensure or registration.
- (2) Persons licensed or registered by the board or who are applicants for licensure or registration by the board shall be subject to disciplinary action by the board if they:
- (a) If licensed or registered by the board, violate any provision of this chapter or any administrative regulation promulgated by the board;
 - (b) Use fraud or deceit in obtaining or attempting to obtain a license or registration from the board, or are granted a license upon mistake of a material fact;
 - (c) If licensed or registered by the board, negligently act in a manner inconsistent with the practice of the discipline for which the person is licensed or registered;
 - (d) Are unable to practice a discipline regulated by the board with reasonable skill or safety or are unfit or incompetent to practice a discipline regulated by the board;
 - (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others, or those drugs prescribed by the licensee;
 - (f) Falsify or fail to make essential entries on essential records;
 - (g) Are convicted of a misdemeanor which involved acts which bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, ***if in accordance with KRS Chapter 335B***;
 - (h) Are convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts which bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or registration held or sought, ***if in accordance with KRS Chapter 335B***;
 - (i) Are convicted of a misdemeanor offense under KRS Chapter 510 involving a patient;
 - (j) Have had a license or certificate to practice as a dentist, dental hygienist, or dental assistant denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (k) Have a license or registration to practice any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or registration to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (l) Violate any lawful order or directive previously entered by the board;
 - (m) Have been listed on the National Practitioner Databank with a substantiated finding of abuse, neglect, or misappropriation of property;
 - (n) Fail to notify the board in writing of any change in the person's name, residential address, employment address, preferred mailing address, or telephone number within thirty (30) days of the change;
 - (o) Fail to comply with KRS 422.317 regarding patient records; or
 - (p) Fail to report to the board any negative outcome related to dental treatment involving intravenous or conscious sedation beyond anxiety control that requires hospital admission.

- (3) A person who violates subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class B misdemeanor for a first offense and a Class A misdemeanor for each subsequent offense. The board shall consider each individual count of a violation as a separate and subsequent offense.
- (4) The provisions of this section shall not preclude prosecution for the unlawful practice of dentistry by an agency of the Commonwealth.
- (5) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the Office of the Board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
- (6) The institution or imposition of disciplinary action by the Office of the Board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 58. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States, *if in accordance with KRS Chapter 335B*. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses use of controlled substances, prescription medications, illegal substances, or alcohol;
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
 - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board;
 - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or
 - (n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.

- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
- (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
- (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
- (5) A final order of the board shall be by majority vote thereof.
- (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
- (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

➔Section 59. KRS 314A.225 is amended to read as follows:

- (1) The board may refuse to issue a certificate, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any certificate holder upon proof that the certificate holder has:
 - (a) Committed any crime, act of dishonesty, or corruption, *if in accordance with KRS Chapter 335B*. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the certificate holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of conviction;
 - (b) Misrepresented or concealed a material fact in obtaining, renewing or reinstating a certificate;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of respiratory care;
 - (e) Violated any state statute or administrative regulation governing the practice of respiratory care or any activities undertaken by a respiratory care practitioner;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethics as set forth in administrative regulations promulgated by the board; or
 - (h) Violated any applicable provision of any federal or state law, *if in accordance with KRS Chapter 335B*.
- (2) One (1) year from the date of revocation, any person whose certificate has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the certificate upon a finding that the individual has complied with any terms prescribed by that board and is again able to competently engage in the practice of respiratory care.
- (3) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.
- (4) The surrender of a certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary action under this chapter.

➔Section 60. KRS 315.121 is amended to read as follows:

- (1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:
 - (a) Unprofessional or unethical conduct;

- (b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging or assisting in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;
 - (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following, *if in accordance with KRS Chapter 335B*:
 - 1. A crime as defined in Section 29 of this Act~~[felony];~~;
 - ~~2. An act involving moral turpitude or gross immorality;~~ or
 - 2.~~[3.]~~ A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;
 - (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
 - (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;
 - (f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;
 - (g) Engaging in or aiding and abetting an individual to engage or assist in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," "pharmacy technician," or other term which might imply that the individual is a pharmacist, pharmacist intern, or pharmacy technician;
 - (h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;
 - (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation;
 - (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board; or
 - (k) Failure to notify the board within fourteen (14) days of a change in one's home address.
- (2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist, pharmacist intern, or pharmacy technician:
- (a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;
 - (b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:
 - 1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
 - 2. Certified or licensed health-care personnel who are responsible for care of the patient;
 - 3. Designated agents of the Cabinet for Health and Family Services for the purposes of enforcing the provisions of KRS Chapter 218A;
 - 4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
 - 5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

- (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist, pharmacy intern, or pharmacy technician knows or should have known of their intended use in illegal activities;
 - (d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;
 - (e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;
 - (f) Except as provided in KRS 315.500, selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;
 - (g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;
 - (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
 - (i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care; or
 - (j) Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.
- (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.
- (4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.
- (5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.
- (6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
- (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
 - (b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; assist in the practice of pharmacy; provide home medical equipment and services; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person; or create a significant threat of such harm.

➔Section 61. KRS 316.150 is amended to read as follows:

- (1) The board may refuse to issue or renew, may revoke, or suspend and impose probationary conditions on the license of any Kentucky-licensed embalmer or Kentucky-licensed funeral director, and may issue a written reprimand and impose a fine, for:

- (a) Violating any provision of this chapter, any lawful order of the board, or any administrative regulation promulgated by the board pursuant to this chapter;
 - (b) Being convicted of any felony, or any misdemeanor if the misdemeanor relates to the practice of embalming or funeral directing, *if in accordance with KRS Chapter 335B*. For purposes of this subsection, a conviction includes a finding or verdict of guilt or an entry of a guilty plea or a plea of no contest;
 - (c) Paying or offering to pay, directly or indirectly, any consideration of value to secure a funeral, prior to or after an individual's death, or allowing the applicant's or licensee's employee or immediate family member to pay anything of value to secure a funeral;
 - (d) Soliciting business in any way by offering or giving any service which is not a normal function of a licensed embalmer or a licensed funeral director in a regular service;
 - (e) Permitting any person who is not a Kentucky-licensed embalmer or Kentucky-licensed funeral director to perform any service pertaining to embalming or funeral directing required by law of a licensed embalmer or a licensed funeral director, from the time of death until interment;
 - (f) Misrepresenting or concealing a material fact in obtaining a license or an apprentice registration;
 - (g) Assisting any applicant for an embalmer's or a funeral director's license in obtaining the license by misrepresentation or concealment of a material fact in registering for an apprenticeship, or during the period of serving an apprenticeship, or in taking or passing the examination for an embalmer's or a funeral director's license;
 - (h) Being sanctioned for a violation of any state or federal statute or administrative regulation governing the funeral industry or its practice for which a plan of correction or remedial action was not accepted by the state or federal authority; or
 - (i) Committing any act which constitutes unprofessional, fraudulent, misleading, corrupt, deceptive, or dishonest conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to a disciplinary action.
- (2) The board may refuse to issue, may revoke, or suspend and impose probationary conditions on the registration of an apprentice, and may issue a written reprimand and impose a fine, for:
- (a) Violating any of the provisions set out in paragraphs (a) to (i) of subsection (1) of this section; or
 - (b) Disobeying the proper orders or instructions of a superior.
- (3) The board may refuse to issue or renew, may revoke, or suspend and impose probationary conditions on the license of any funeral establishment, and may issue a written reprimand and impose a fine, for:
- (a) Misrepresenting or concealing a material fact in obtaining a funeral establishment license;
 - (b) Operating a funeral establishment in violation of any lawful order of the board or any state or federal statute or administrative regulation governing the operation of a funeral establishment; or
 - (c) Operating a funeral establishment without the supervision of a Kentucky-licensed embalmer or a Kentucky-licensed funeral director.

➔Section 62. KRS 317A.140 is amended to read as follows:

- (1) The board may fine, refuse to issue or renew a license, or revoke or suspend a license upon proper showing of an applicant's, permittee's, or licensee's:
- (a) Conviction of a felony, *if in accordance with KRS Chapter 335B*;
 - (b) Gross malpractice or incompetence;
 - (c) Mental or physical health that would endanger public health or safety;
 - (d) False or deceptive practice or misrepresentation including advertising;
 - (e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or administrative regulations of the board promulgated pursuant to this chapter;
 - (f) Immoral or unprofessional conduct;

- (g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or administrative regulations of the board promulgated pursuant to this chapter;
 - (h) Failure to comply with the administrative regulations of the board.
- (2) Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general fund.
- (3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.

➔Section 63. KRS 317B.045 is amended to read as follows:

- (1) The board may refuse to issue or renew a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding proof of any applicant's or licensee's:
- (a) Conviction of a felony, *if in accordance with KRS Chapter 335B*;
 - (b) Gross malpractice or incompetence;
 - (c) Mental or physical health that would endanger public health or safety;
 - (d) False or deceptive practice or misrepresentation including advertising;
 - (e) Practicing in an unlicensed salon or in a salon knowing that the practice is not in compliance with this chapter or the administrative regulations of the board promulgated pursuant to this chapter;
 - (f) Immoral conduct, unprofessional conduct, or a violation of the code of ethics;
 - (g) Teaching in an unlicensed school or in a school knowing that the school is not in compliance with this chapter or the administrative regulations of the board promulgated pursuant to KRS 317B.010 to 317B.060; or
 - (h) Failure to comply with this chapter or the administrative regulations promulgated by the board.
- (2) Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the trust and agency account of the board.
- (3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.
- (4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board, including retesting, and is again able to competently engage in the practice of esthetics.
- (5) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.
- (6) The board may utilize mediation as a technique in reasonably handling disciplinary matters. The board may appoint any member or members of the board, any staff member, or any other person or combination thereof to serve in the mediation process.
- (7) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

➔Section 64. KRS 319.082 is amended to read as follows:

- (1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:
- (a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not, *if in accordance with KRS Chapter 335B*. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

- (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of psychology;
 - (e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;
 - (f) Violated any state statute or administrative regulation governing the practice of psychology;
 - (g) Unlawfully failed to cooperate with the board by:
 - 1. Not furnishing any papers or documents requested by the board;
 - 2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;
 - 3. Not appearing before the board at the time and place designated; or
 - 4. Not properly responding to subpoenas issued by the board;
 - (h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (i) Aided or abetted an unlicensed person to practice when a license or certificate is required;
 - (j) Grossly overcharged for professional services;
 - (k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;
 - (l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;
 - (m) Been convicted of any misdemeanor or felony relating to the practice of psychology, *if in accordance with KRS Chapter 335B*. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
 - (n) Physically abused or had sexual contact with a patient, client, student, or supervisee;
 - (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;
 - (p) Improperly divulged confidential information;
 - (q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
 - (r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or
 - (s) Failed to comply with the requirements of the board for continuing education.
- (2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.
 - (3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.
 - (4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.

- (5) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at any time.

➔Section 65. KRS 319A.190 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board, or violating the code of ethics promulgated by the board;
 - (c) Being convicted of a felony in any court if the act or acts for which he was convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a licensed occupational therapist or licensed occupational therapy assistant, *if in accordance with KRS Chapter 335B*;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
 - (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 66. KRS 319B.140 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violation of the code of ethics promulgated by the board through administrative regulations;
 - (c) Being convicted of a felony in any court if the act or acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed profession, *if in accordance with KRS Chapter 335B*;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
 - (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon an applicant or licensee may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board may accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 67. KRS 319C.070 is amended to read as follows:

The board may deny an application or reregistration for a license, place a licensee on probation for a period not to exceed five (5) years, suspend a license for a period not to exceed five (5) years, limit or restrict a license for an indefinite period, or revoke any license issued by the board, upon proof that the licensee has:

- (1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;
- (2) Practiced, or aided or abetted in the practice of, fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;
- (3) Entered a guilty or nolo contendere plea, or been convicted, ***of a crime as defined in Section 29 of this Act, if in accordance with KRS Chapter 335B***~~by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be, a felony under the laws of the Commonwealth of Kentucky or of the United States, or of any crime involving moral turpitude which is a misdemeanor under the laws of this or another state~~;
- (4) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, or KRS 530.064(1)(a) or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the licensee;
- (5) Become addicted to a controlled substance;
- (6) Become a chronic or persistent alcoholic;
- (7) Been unable or is unable to practice applied behavior analysis according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition, including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of applied behavior analysis;
- (8) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof; or
- (9) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

➔Section 68. KRS 320.310 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend a license, may place on probation, or reprimand a licensee, may order restitution, may impose a fine not to exceed one thousand dollars (\$1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has:
 - (a) Engaged in any practice of fraud or deceit in obtaining or attempting to obtain a license;
 - (b) Been convicted of any felony or has been convicted of a misdemeanor involving sexual misconduct, ***if in accordance with KRS Chapter 335B***. A record of the conviction or a certified copy of the record shall be conclusive evidence ***of the conviction***;
 - (c) Chronic or persistent inebriety or addiction to a drug habit to an extent that continued practice is dangerous to patients or to the public safety;
 - (d) Been granted a license upon a mistake of material fact;
 - (e) Engaged in incompetence, as determined by the board;
 - (f) Practiced as an itinerant, peddled from door to door, established a temporary office, or practiced optometry outside of or away from his or her regular office or place of practice, except that the board may promulgate administrative regulations to authorize the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board;
 - (g) Employed, procured, induced, aided, or abetted any person, not holding a Kentucky license, to practice optometry or in practicing optometry;
 - (h) Used the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist" or suitable words or letters designating an optometry degree;
 - (i) Engaged in any conduct likely to deceive or defraud the public;
 - (j) Violated any order issued by the board;
 - (k) Had his or her license to practice optometry in any other jurisdiction revoked, suspended, limited, placed on conditions of probation, or subjected to any other disciplinary action by that jurisdiction's licensing authority;

- (l) Prescribed any therapeutic agent in an amount that the optometrist knows, or should know, is excessive under accepted and prevailing standards, or which the optometrist knows, or has reason to know, will be used or is likely to be used other than for an accepted therapeutic purpose;
 - (m) Developed a physical or mental disability, or other condition, which renders the continued practice by the optometrist dangerous to patients or the public; or
 - (n) Violated any statute under this chapter or administrative regulation promulgated under those statutes.
- (2) Nothing in this section shall prevent an optometrist from establishing branch offices if each office contains minimum equipment as required by administrative regulation of the board, ensures patient care as necessary, and has a Kentucky licensed optometrist in charge of the office.
- (3) Any licensee, permit holder, or certificate holder who is disciplined under this chapter for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
- (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
 - (b) No person may have his or her record expunged under this chapter more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

➔Section 69. KRS 321.351 is amended to read as follows:

- (1) The board may refuse to issue a license, or may suspend, revoke, impose probationary or supervisory conditions upon, impose an administrative fine not to exceed five thousand dollars (\$5,000) per violation, issue a written reprimand, issue a private admonishment, or any combination of actions regarding any licensee upon proof that the licensee has:
- (a) Committed any act of dishonesty or corruption, *if in accordance with KRS Chapter 335B*. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement of a license;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of veterinary medicine;
 - (e) Violated any state statute or administrative regulation governing the practice of veterinary medicine or any activities undertaken by a veterinarian;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethical conduct as set forth by the board by administrative regulation; or
 - (h) Violated any applicable provision of any federal or state law or regulation regarding the dispensing of controlled or legend drugs, *if in accordance with KRS Chapter 335B*.
- (2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of veterinary medicine.
- (3) When in the judgment of the board, an alleged violation is not of a serious nature, and the evidence presented to the board after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written reprimand to the licensee. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the reprimand within thirty (30) days of its receipt and to have the response placed in the

permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written reprimand and set the matter for hearing.

- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.
- (5) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary action.
- (6) Private admonishment shall not be subject to disclosure to the public under KRS 61.878 and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in a subsequent disciplinary action against the licensee or applicant.

➔Section 70. KRS 322.180 is amended to read as follows:

The board may refuse to issue, refuse to renew, suspend, or revoke a license, may reprimand, place on probation, or admonish a licensee, may impose a fine on a licensee not to exceed one thousand dollars (\$1,000), or may impose any combination of these penalties when it finds that an applicant or licensee:

- (1) Engaged in any practice of fraud or deceit in obtaining a license;
- (2) Engaged in gross negligence, incompetence, or misconduct in the practice of engineering or land surveying;
- (3) Violated any provision of this chapter, the administrative regulations promulgated by the board, or the code of professional practice and conduct adopted by the board and incorporated in administrative regulations;
- (4) Employed, procured, or induced a person not licensed to practice engineering or land surveying in this state;
- (5) Aided or abetted a person not licensed to practice engineering or land surveying in this state;
- (6) Been granted a license upon a mistake of material fact;
- (7) Been convicted by a court of law of a felony, *if in accordance with KRS Chapter 335B*;
- (8) Become a chronic or persistent alcoholic or has become drug-addicted so that continued practice is dangerous to clients or to the public safety;
- (9) Developed a physical or mental disability or other condition so that continued practice is dangerous to clients or to the public safety;
- (10) Violated any order of suspension or the terms or conditions of any order of probation issued by the board;
- (11) Had a license or registration certificate to practice as an engineer or land surveyor denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state;
- (12) Engaged in conduct likely to deceive or defraud the public;
- (13) Presented or attempted to use as his or her own the license, seal, or stamp of another;
- (14) Falsely impersonated any other licensee;
- (15) Attempted to use an expired, suspended, or revoked license;
- (16) Provided certification for any plan, specification, plat, report, or physical description not prepared by him or her or under his or her direct supervision; or
- (17) Applied the seal, stamp, signature, or title block of another professional engineer or professional land surveyor to a plan, specification, plat, report, or physical description that was not prepared by the other professional engineer or land surveyor.

➔Section 71. KRS 323.120 is amended to read as follows:

- (1) The board may refuse to issue, reissue, or renew a license, or may issue a private or public reprimand or may probate, suspend, or revoke the license of any architect to practice architecture in the Commonwealth of Kentucky, or may impose any combination of these sanctions for any of the following reasons:
 - (a) Gross incompetence or gross negligence in the planning or construction of buildings, as determined by the board;
 - (b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;

- (c) Conviction of a felony, *if in accordance with KRS Chapter 335B*;
 - (d) Fraudulent or dishonest architectural practice;
 - (e) Use of false evidence or misrepresentations in an application for licensing or an application for a renewal certificate;
 - (f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employees under his supervision;
 - (g) Violating any provision of this chapter or administrative regulations promulgated under the chapter;
 - (h) Failing to comply with an order issued by the board;
 - (i) Aiding or abetting someone in the unlicensed practice of architecture; or
 - (j) Having a license or registration certificate to practice as an architect denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state.
- (2) The board shall revoke the license of an architect who practices architecture while his license is suspended.
 - (3) The board may, in lieu of or in addition to other penalties, impose a civil penalty not to exceed ten thousand dollars (\$10,000), which shall be paid to the benefit of the board's trust and agency account.

➔Section 72. KRS 323.412 is amended to read as follows:

- (1) The board may suspend, revoke, or refuse to issue or renew the certificate of any person upon a finding of any of the following:
 - (a) The certification was fraudulently obtained;
 - (b) A judgment has been issued against the person for gross incompetence, neglect, or misconduct within the last five (5) years; or
 - (c) A judgment has been issued against the person or the person has pleaded guilty to or been found guilty of fraud or deceit in the person's professional duties within the last five (5) years, *if in accordance with KRS Chapter 335B*.
- (2) Any person may appeal a finding of the board within thirty (30) days of the date of notification of action. Upon appeal, the board shall schedule an administrative hearing in accordance with KRS Chapter 13B.

➔Section 73. KRS 323A.110 is amended to read as follows:

The board may refuse to issue or renew a license, or may place on probation, reprimand, suspend, or revoke the license of any landscape architect to practice landscape architecture in the Commonwealth of Kentucky, and may impose a fine of not less than one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000) per violation, for any of the following reasons:

- (1) Incompetence or negligence in the practice of landscape architecture, as determined by the board;
- (2) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;
- (3) Conviction of a felony, including all instances in which a plea of nolo contendere or no contest is the basis of the conviction, *if in accordance with KRS Chapter 335B*;
- (4) Fraudulent or dishonest landscape architectural practice;
- (5) Use of false evidence or misrepresentations in an application for license;
- (6) Signing or affixing his or her seal to any plans, prints, specifications, or reports which have not been prepared by the landscape architect personally or under his or her immediate supervision;
- (7) Failure to meet the continuing education requirements established by administrative regulation of the board;
- (8) Impairment due to drugs, alcohol, or mental disability to an extent that continued practice may be dangerous to clients or to public safety;
- (9) Failure to comply with an order issued by the board; and
- (10) Violation of any state statute or administrative regulation governing the practice of landscape architecture.

➔Section 74. KRS 324A.050 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or license, reprimand, admonish, place on probation, or impose a fine up to two thousand dollars (\$2000) per each violation determined by the board, not to exceed five thousand dollars (\$5000), on a certificate holder or licensee, or any combination thereof, for any of the following reasons:
 - (a) Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;
 - (b) Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;
 - (c) Being convicted of ~~a~~~~any~~ felony~~[,]~~ or ~~of a~~ misdemeanor~~[,]~~ ~~that may result in a sentence which includes or requires incarceration~~, **if in accordance with KRS Chapter 335B**;
 - (d) Committing an act involving dishonesty, fraud, or misrepresentation;
 - (e) Violating any of the provisions of KRS 324A.010 to 324A.090, the administrative regulations of the board, or any lawful order of the board;
 - (f) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;
 - (g) Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;
 - (h) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
 - (i) Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
 - (j) Failing to observe one (1) or more of the Uniform Standards of Professional Appraisal Practice; or
 - (k) Having a license or registration certificate to practice as a licensed or certified real property appraiser denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state.
- (2) Notwithstanding any other provision of this chapter to the contrary, the requirements of KRS Chapter 324A, the board's administrative regulations, and the Uniform Standards of Professional Appraisal Practice shall constitute the minimum standard of conduct and performance for a licensee or credential holder in any work or service performed that is addressed by those standards.
- (3) In any proceeding in which a suspension of thirty (30) days or more, or revocation is imposed, the board may require the respondent to pay the actual costs of the investigation and all proceedings not to exceed ten thousand dollars (\$10,000).
- (4) Three (3) years from the date of a revocation, any certificate holder or licensee whose certificate or license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate, upon a finding that the petitioner has complied with any and all terms prescribed by the board and is able to engage in the practice of real estate appraisal within the requirements of this chapter and the administrative regulations. The board may, in its discretion, require the petitioner to successfully pass the examination required for the applicable certificate or license.

➔Section 75. KRS 325.340 is amended to read as follows:

- (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke, suspend, impose a fine not to exceed one thousand dollars (\$1,000) for each violation of a provision of this chapter or administrative regulations promulgated by the board under this chapter, refuse to issue or renew any license, censure, or place on probation any person or firm, all with or without terms, for any one (1) or any combination of the following causes:
 - (a) Fraud or deceit in obtaining a license issued under this chapter;
 - (b) Dishonesty, fraud, or negligence while performing any regulated activity, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including but not limited to the following:

1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and
 2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;
- (c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;
- (d) Violation of a rule of professional conduct promulgated by the board;
- (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or of the United States. Conviction includes, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime, ***if in accordance with KRS Chapter 335B***;
- (f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;
- (g) Suspension or revocation of the right to practice before any state or federal agency or the Public Company Accounting Oversight Board or its successor;
- (h) Conduct discreditable to the accounting profession; or
- (i) Failure to respond to a board inquiry regarding any licensing or complaint matter.
- (2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent to pay the costs of the investigation and all proceedings.

➔Section 76. KRS 326.090 is amended to read as follows:

- (1) The board may refuse to issue a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has:
- (a) Committed a dishonest or corrupt act, ***if in accordance with KRS Chapter 335B***. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Committed any unfair, false, misleading, or deceptive act or practice;
 - (c) Been incompetent or negligent in the practice of ophthalmic dispensing;
 - (d) Failed to comply with a lawful order of the board;
 - (e) Aided or abetted another person in falsely procuring or attempting to procure a license;
 - (f) Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;
 - (g) Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies the applicant or the licensee from practicing with safety to the public;
 - (h) Committed fraud or deception in the application or in the examination for the license; or
 - (i) Violated any provisions of this chapter or administrative regulations promulgated in accordance with this chapter.
- (2) The board may impose a fine against any person who:
- (a) Operates an optical establishment without the supervision of a Kentucky-licensed ophthalmic dispenser;
 - (b) Allows, aids, or abets an unlicensed person to perform activities that violate KRS 326.030 and are not otherwise exempted from the provisions of this chapter; or
 - (c) Allows a Kentucky licensed ophthalmic dispenser to supervise more than one (1) optical establishment at the same time.

- (3) After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.

➔Section 77. KRS 327.070 is amended to read as follows:

- (1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B may take any one (1) or a combination of the following actions against any licensee, certificate holder, or applicant:
- (a) Refuse to license or certify any applicant;
 - (b) Refuse to renew the license or certificate of any person;
 - (c) Suspend or revoke or place on probation the license or certificate of any person;
 - (d) Impose restrictions on the scope of practice of any person;
 - (e) Issue an administrative reprimand to any person;
 - (f) Issue a private admonishment to any person; and
 - (g) Impose fines for violations of this chapter not to exceed two thousand five hundred dollars (\$2,500).
- (2) The following acts by a licensee, certificate holder, or applicant may be considered cause for disciplinary action:
- (a) Indulgence in excessive use of alcoholic beverages or abusive use of controlled substances;
 - (b) Engaging in, permitting, or attempting to engage in or permit the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;
 - (c) Having engaged in or attempted to engage in a course of lewd or immoral conduct with any person:
 - 1. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist's assistant provides physical therapy services; or
 - 2. While that person is a patient or client of the physical therapist or physical therapist's assistant;
 - (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with an employee or coworker of the licensee or certificate holder;
 - (e) Sexually harassing an employee or coworker of the licensee or certificate holder;
 - (f) Conviction of a felony or misdemeanor in the courts of this state or any other state, territory, or country which affects his ability to continue to practice competently and safely on the public, ***if in accordance with KRS Chapter 335B.*** "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - (g) Obtaining or attempting to obtain a license or certificate by fraud or material misrepresentation or making any other false statement to the board;
 - (h) Engaging in fraud or material deception in the delivery of professional services, including reimbursement, or advertising services in a false or misleading manner;
 - (i) Evidence of gross negligence or gross incompetence in his practice of physical therapy;
 - (j) Documentation of being declared mentally disabled by a court of competent jurisdiction and not thereafter having had his rights restored;
 - (k) Failing or refusing to obey any lawful order or administrative regulation of the board;
 - (l) Promoting for personal gain an unnecessary device, treatment, procedure, or service, or directing or requiring a patient to purchase a device, treatment, procedure, or service from a facility or business in which he has a financial interest; and

- (m) Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently.
- (3) A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

➔Section 78. KRS 329.070 is amended to read as follows:

The cabinet may deny, suspend or revoke any license on any one or more of the following grounds:

- (1) Material misstatement in the application for a license or in the application for a renewal license.
- (2) Willful disregard or violation of this chapter or of any regulation or rule issued pursuant thereto.
- (3) If the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor, ***if in accordance with KRS Chapter 335B***~~[involving moral turpitude]~~.
- (4) Making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees.
- (5) Having demonstrated unworthiness or incompetency to act as an examiner or trainee, as defined under this chapter, in such manner as to effect the interests of the public.
- (6) Allowing one's license under this chapter to be used by an unlicensed person in violation of the provisions of this chapter.
- (7) Willfully aiding or abetting another in the violation of this chapter or of any regulation or rule issued pursuant thereto.
- (8) Where the license holder has been adjudged mentally ill, mentally deficient or in need of mental treatment as provided in the Mental Health Code.
- (9) Failing, within a reasonable time, to provide information requested by the cabinet as the result of a formal or informal complaint to the cabinet, which would indicate a violation of this chapter.

➔Section 79. KRS 329A.065 is amended to read as follows:

- (1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:
 - (a) Violated any provision of KRS 329A.010 to 329A.090 or any administrative regulation promulgated by the board;
 - (b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;
 - (c) Been convicted of a felony, ***if in accordance with KRS Chapter 335B***;
 - (d) Practiced fraud, deceit, or misrepresentation;
 - (e) Committed any act that would have been cause for refusal to issue the license had it existed and been known to the board at the time of issuance;
 - (f) Been incompetent or negligent in the practice of private investigating; or
 - (g) Violated the code of ethics promulgated by administrative regulation by the board.
- (2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding two thousand dollars (\$2,000).
- (3) When the board issues a written reprimand to the licensee a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.
- (4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.
- (5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

- (6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.
- (7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

➔Section 80. KRS 334.120 is amended to read as follows:

- (1) Complaints against licensed persons shall be handled by the board in the following manner:
 - (a) Any person desiring to make a complaint against a licensee under this chapter shall reduce the complaint to writing and file it with the board.
 - (b) The board may conduct an investigation into any complaint which the board feels may constitute a violation of this chapter or the administrative regulations promulgated thereunder.
 - (c) The board may require that the licensee file a statement or report in writing as to the facts and circumstances concerning the complaint together with other information, material, or data reasonably related thereto.
 - (d) The board may request the assistance of the Attorney General in connection with an investigation.
 - (e) The board may employ the services of a hearing officer to conduct hearings, prehearing conferences, advise the board as to legal matters, and provide other legal services deemed appropriate by the board.
- (2) If the board determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this chapter shall be suspended, revoked, or subject to reprimand or fine, it shall conduct a hearing in accordance with KRS Chapter 13B.
- (3) The provisions of this chapter shall in no way limit the jurisdiction and authority of the Attorney General to take any necessary action under the Kentucky Consumer Protection Act, KRS 367.110 to 367.300.
- (4) The board may suspend, revoke, or levy a fine not to exceed one thousand dollars (\$1,000), refuse to issue or renew any license for a fixed period of time, place on probation, issue a written reprimand to a licensee, or any combination thereof, based on a finding of the board after hearing that a person licensed under the provisions of this chapter has committed any of the following acts:
 - (a) Change of personal name, corporate name, charter, entity, or partnership name or composition to avoid the imposition of liens or court action;
 - (b) The conviction of a felony, or a misdemeanor, *if in accordance with KRS Chapter 335B* ~~involving moral turpitude~~. The record of conviction, or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of that conviction;
 - (c) Procuring of license by fraud or deceit practiced upon the board;
 - (d) Unethical conduct as defined by the board by promulgation of an administrative regulation;
 - (e) Engaging in any unfair, false, misleading, or deceptive act or practice;
 - (f) Incompetence or negligence in the practice of selling or fitting hearing instruments; or

➔Section 81. KRS 334A.180 is amended to read as follows:

- (1) The board may refuse to issue a license, suspend or revoke the license of any licensee, or fine a licensee an amount agreed upon by a two-thirds (2/3) vote of the board in an amount not to exceed one thousand dollars (\$1,000), and the board may take action against a license and fine a licensee if he or she has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may include:
 - (a) Obtained the license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Has been guilty of unprofessional conduct as defined by the rules established by the board, or has violated the code of ethics adopted and published by the board;
 - (c) Has violated any lawful order, rule, or regulation rendered or adopted by the board;
 - (d) Has represented that the professional services or advice of a physician has been used, or has used the words "doctor," "clinic," or similar words, abbreviations, or symbols while failing to affix the word, term, or initials pertaining to "audiology," "audiologic," "audiologist," "doctor of audiology," "speech-language pathologist," "speech-language pathology," "Au.D.," "Ph.D.," or "Sc.D.";

- (e) Has failed to affix the word, term, or initials specified in paragraph (d) of this subsection in any sign, written communication, or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist or speech-language pathologist holding a doctoral degree; or
 - (f) Has violated any provisions of this chapter.
- (2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a license as ordered by the board in any decision made after hearing as provided in this chapter. One (1) year from the date of revocation of a license under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement.
 - (3) A person applying for reinstatement of licensure shall provide evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board.
 - (4) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony is deemed to be a conviction within the meaning of this chapter. At the direction of the board, ***if in accordance with KRS Chapter 335B***, the license shall be suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the acquisition, information or indictment.

➔Section 82. KRS 335.150 is amended to read as follows:

- (1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose an administrative fine; issue a written reprimand or admonishment; or any combination of actions regarding any applicant, license, or licensee upon proof that the applicant or licensee has:
 - (a) Committed any act of dishonesty or corruption, ***if in accordance with KRS Chapter 335B***. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence creates a rebuttable presumption at the ensuing disciplinary hearing of the guilt of the applicant or licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of social work;
 - (e) Violated any state statute or administrative regulation governing the practice of social work or any activities undertaken by a social worker;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation;
 - (h) Been legally declared mentally incompetent;
 - (i) Aided or abetted another person in falsely procuring or attempting to procure a license; or
 - (j) Aided or abetted an unlicensed person in the practice of social work.
- (2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to engage competently in the practice of social work.
- (3) If an alleged violation is not of a serious nature and the evidence presented to the board, after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response within thirty (30) days of its receipt and to have the response placed in the licensee's permanent file. Alternatively, the licensee may file a request for a hearing, within thirty (30) days of the receipt of the written admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.

- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order with, or accept an assurance of voluntary compliance from, the licensee that effectively satisfies the complaint.
- (5) The board may reconsider, modify, or reverse its decision regarding probation, suspension, or any other disciplinary action.
- (6) Upon proof substantiating that sexual contact occurred between a social worker licensed by the board and a client while the client was under the care of or in a professional relationship with the social worker, the social worker's license may be revoked or suspended with mandatory treatment of the social worker as prescribed by the board. The board may require the social worker to pay a specified amount for mental health services for the client which are needed as a result of the sexual contact.
- (7) The board may revoke the license of a social worker if the social worker has been convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found to have had sexual contact as defined in KRS 510.010(7) with a client while the client was under the care of the social worker.

➔Section 83. KRS 335.348 is amended to read as follows:

- (1) The board may refuse to issue a license or permit, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any licensee or permit holder upon proof that the licensee or permit holder has:
 - (a) Committed any act of dishonesty or corruption, *if in accordance with KRS Chapter 335B*. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of marriage and family therapy;
 - (e) Violated any state statute or administrative regulation governing the practice of marriage and family therapy or any activities undertaken by a marriage and family therapist;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethics as set forth by the board in administrative regulations; or
 - (h) Violated any applicable provision of any federal or state law, *if in accordance with KRS Chapter 335B*.
- (2) Five (5) years from the date of a revocation, any person whose license or permit has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license or permit upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of marriage and family therapy.
- (3) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.
- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.
- (5) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.
- (6) The surrender of a license or permit shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.

➔Section 84. KRS 335.540 is amended to read as follows:

- (1) The board may refuse to issue a credential, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, or issue a written reprimand or admonishment if the credential holder has:
 - (a) Committed a dishonest or corrupt act, *if in accordance with KRS Chapter 335B*. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the credential holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Misrepresented or concealed a material fact in obtaining or reinstating a credential;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the activities he has undertaken within his or her practice;
 - (e) Violated any state statute or administrative regulation promulgated pursuant to KRS 335.500 to 335.599;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethics; or
 - (h) Violated any applicable provisions of federal or state law, *if in accordance with KRS Chapter 335B*.
 - (2) Any person whose credential has been revoked for at least five (5) or more years may petition the board for reinstatement. The board shall investigate the petition and may reinstate the credential upon a finding that the individual has complied with the terms prescribed by the board and is able to competently engage in professional practice.
 - (3) The board may issue a written admonishment to the credential holder if the board determines based on the evidence, that a violation that is not serious has occurred. A copy of the written admonishment shall be placed in the permanent file of the credential holder. The credential holder may respond in writing to the admonishment within thirty (30) days of its receipt and may have it placed in his permanent credential file. Alternatively, the credential holder may file a request for a hearing with the board within thirty (30) days of the admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.
 - (4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the credential holder.
 - (5) The board may consider, modify, or reverse its probation, suspensions, or other disciplinary action.
- ➔Section 85. KRS 532.100 is amended to read as follows:
- (1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.
 - (2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.
 - (3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
 - (4)
 - (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or (12), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who received a sentence of more than five (5) years for nonviolent, nonsexual offenses, but who currently has less than five (5) years remaining to be served, may serve the remainder of his or her term in a county jail in a county in which the fiscal court has agreed to house state prisoners.

- (c)
 - 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:
 - a. Beds are available in the county jail;
 - b. State facilities are at capacity; and
 - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
 - 2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction, the sentence shall be served in a state institution.
 - 3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (d) Any jail that houses state inmates under this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under this subsection.
- (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
- (6) Class D felons and Class C felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).
- (7) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.
- (8) *(a) Class D felons eligible for placement in a local jail may be permitted by the warden or jailer to participate in any approved community work program or other form of work release with the approval of the commissioner of the Department of Corrections.*
- (b) The authority to release an inmate to work under this subsection may be exercised at any time during the inmate's sentence, including the period when the court has concurrent authority to permit work release pursuant to KRS 439.265.*
- (c) The warden or jailer may require an inmate participating in the program to pay a fee to reimburse the warden or jailer for the cost of operating the community work program or any other work release program. The fee shall not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the prisoner's weekly net pay earned from the community work program or work release participation. In addition, the inmate may be required to pay for any drug testing performed on the inmate as a requirement of the community work program or work release participation.*
- (d) This subsection shall not apply to an inmate who:*
- 1. Is not eligible for work release pursuant to KRS 197.140;*
 - 2. Has a maximum or close security classification as defined by administrative regulations promulgated by the Department of Corrections;*
 - 3. Is subject to the provisions of KRS 532.043; or*
 - 4. Is in a reentry center as defined in Section 87 of this Act.*

➔SECTION 86. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) *"County jail" means all detention and penal facilities of a county, charter county, urban-county government, unified local government, or consolidated local government for adult offenders, together with all its rehabilitative facilities for adult offenders, including facilities operated by private agencies under contract with the county, charter county, urban-county government, unified local government, or consolidated local government;*
- (b) *"Day reporting program" or "program" means a community-based, structured sentencing program operated by a county jail that combines enhanced community supervision with resources and services tailored to meet identified offender needs; and*
- (c) *"Eligible defendant" means an individual convicted of a misdemeanor or a Class D felony who is eligible to serve all or part of his or her sentence in a county jail or who is found in contempt of court and who meets the intake criteria established by the day reporting program to which the person would be sentenced.*

(2) A court may sentence an eligible defendant as part of an alternative sentencing plan or as a sentence for contempt to a local day reporting program for a period of time not longer than the defendant's maximum potential period of incarceration if:

- (a) *The program utilizes whenever practicable a validated screening tool based on criminogenic risk factors to identify an individual's likelihood of reoffending and his or her treatment needs in determining program eligibility;*
- (b) *The program has agreed to accept the defendant;*
- (c) *The defendant agrees in writing to comply with the program's written terms and conditions; and*
- (d) *The defendant, if additionally required by the court or the program to do so, agrees to be subject to the conditions of electronic monitoring pursuant to KRS 532.210 to 532.250.*

(3) In sentencing a defendant to a day reporting program under this section, a court may authorize a temporary release from the program for any of the purposes allowed for the release of a jail prisoner under KRS 439.179.**(4) The day reporting program shall provide a weekly report of all violations of the program's terms and conditions for each program participant to the sentencing court, to the prosecutor, and to the defendant in the case. If specified in the program's written terms and conditions, the program may alter the terms and conditions of a person's participation in the program in response to that person's minor breach of the program's terms and conditions.****(5) A court may alter or revoke a defendant's participation in a day reporting program if written notice of the grounds for alteration or revocation is given to the defendant and a hearing is conducted at which the defendant is represented by counsel. Following the hearing, if the court finds that the defendant has without good cause failed to participate in the program or to comply with its terms and conditions, the court may impose any additional sentence or other sanction specified in the original sentencing order.****(6) The Administrative Office of the Courts shall prescribe forms to be utilized in the implementation of this section.****(7) A day reporting program may be referred to as a day reporting center or other appropriate nomenclature in its day-to-day operations.**

➔Section 87. KRS 441.005 is amended to read as follows:

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

- (1) *"Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any political subdivision.*
- (2) *"Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for in court proceedings.*

- (3) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:
 - (a) Charged with or convicted of an offense; or
 - (b) Held for extradition or as a material witness; or
 - (c) Confined for any other reason.
- (4) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. If a person is imprisoned for contempt of court, the state shall be deemed the responsible unit of government.
- (5) "Department" means the Department of Corrections.
- (6) "Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel.
- (7) "Regional jail" means a jail that may house prisoners for up to one (1) year and which is:
 - (a) Owned and operated by one (1) county and, on a regular basis, holds prisoners for another county or for the state; or
 - (b) Owned and operated by two (2) or more counties through a regional jail authority as provided in KRS 441.800.
- (8) "Commissioner" means the Commissioner of the Department of Corrections.
- (9) ***"Reentry center" means a supervised community residential facility operated by a local correctional facility, county jail, or regional jail as detailed in Section 88 of this Act.***

➔SECTION 88. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

- (1) ***A local correctional facility, county jail, or regional jail may, with the approval of the Department of Corrections, operate a reentry center. Reentry centers established pursuant to this section shall:***
 - (a) ***Employ a program coordinator responsible for oversight of the reentry center;***
 - (b) ***Offer residents at least one (1) vocational training program approved by the Department of Corrections;***
 - (c) ***Offer residents at least two (2) other evidence-based programs approved by the Department of Corrections;***
 - (d) ***Review each participant's case with a certified alcohol and drug counselor as defined in KRS 309.080;***
 - (e) ***Require residents to participate in family outreach and community involvement programs;***
 - (f) ***Require residents to seek or maintain employment in the community. The reentry center shall require ten percent (10%) of the resident's income to be deposited into a savings account, shall require fifteen percent (15%) of the resident's income to be directed to payment of restitution if applicable, and may charge each resident a fee of not more than twenty percent (20%) of the resident's income; and***
 - (g) ***Report data as required by the Department of Corrections in order to allow evaluation of the effectiveness of the reentry center.***
- (2) ***A person is eligible for placement in a reentry center if he or she has less than twelve (12) months until the expected expiration of his or her sentence and is:***
 - (a) ***A state inmate eligible for placement in a local jail pursuant to Section 85 of this Act;***
 - (b) ***A Class B felon who is classified as low risk by the Department of Corrections; or***
 - (c) ***A county inmate in the jail operated by the political subdivision which operates the reentry center.***
- (3) ***Residents may be assigned to a reentry center by:***
 - (a) ***Administrative classification by the Department of Corrections;***

- (b) *Administrative decision of the jailer for inmates of the jail;*
- (c) *The court, as an alternative sentence; or*
- (d) *The Parole Board, as a condition of parole or as a sanction for violation of conditions of parole.*

➔SECTION 89. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Corrections shall, by administrative regulation, establish standards for the operation of reentry centers established pursuant to Section 88 of this Act.*
- (2) *The Department of Corrections shall utilize data reported by the reentry centers pursuant to Section 88 of this Act to analyze the effectiveness of the reentry centers in reducing recidivism and the engagement of residents in employment and in the community.*
- (3) *Placement of inmates in reentry centers by the Department of Corrections or the Parole Board shall prioritize placement in higher-performing centers, as determined by the Department of Corrections.*

➔Section 90. KRS 196.031 is amended to read as follows:

- (1) The cabinet shall employ the personnel and operate and maintain data collection and processing systems necessary to comply with the provisions of this section.
- (2) The cabinet shall annually on July 1 of each year report to the Governor, the Legislative Research Commission, and the Kentucky State Corrections Commission on:
 - (a) The placement of prisoners within the Commonwealth's correctional system by institution, whether imprisoned in a state prison or other institution, including county jails, on probation, paroled, housed in halfway houses, ***housed in reentry centers***, sentenced to community service or otherwise;
 - (b) Numbers of prisoners by type of offense;
 - (c) Numbers of prisoners by number and type of prior convictions;
 - (d) Numbers of prisoners paroled by type of offense and by length of time served;
 - (e) Numbers of prisoners released through shock probation by type of offense and by length of time served;
 - (f) Numbers of prisoners serving their full sentence by type of offense;
 - (g) The percentage of felony offenders on parole or some form of post-release supervision who are participating or completing treatment consistent with assessment results, in prison and in the community;
 - (h) The percentage of felony offenders whose reassessment results demonstrate reductions in criminal risk factors;
 - (i) The percentage of programs that demonstrate their effectiveness in reducing recidivism;
 - (j) The percentage of felony offenders on parole or some form of post-release supervision, by supervision type, who:
 - 1. Are employed or in school within thirty (30) days, six (6) months, and one (1) year of the start of supervision;
 - 2. Have had part-time employment for a minimum of six (6) months, and the percentage of offenders who have had full-time employment for a minimum of six (6) months;
 - 3. Have housing upon release from incarceration;
 - 4. Had stable housing for at least six (6) months; and
 - 5. Are arrested, convicted, or incarcerated within six (6) months, one (1) year, and three (3) years;
 - (k) The percentage of admissions to prison by offenders under supervision at the time of admission, including information regarding whether the violations were criminal or technical; and
 - (l) Any other data that provides information on state-funded crime reduction and recidivism reduction efforts, including caseload sizes by risk level, participation in treatment and intervention programming, public safety outcomes, and cost effectiveness.
- (3) The cabinet shall annually report to the Governor and to the Legislative Research Commission on:

- (a) Numbers and types of prison beds necessary to meet current population needs and six (6) year projections of those needs;
- (b) Current personnel needs of the cabinet and five (5) year projections of the needs; and
- (c) A six (6) year projection of needed capital construction, program development, and anticipated requests for appropriations.

➔Section 91. KRS 439.340 is amended to read as follows:

- (1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his or her admission to an adult state penal or correctional institution or county jail if he or she is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include the results of his or her most recent risk and needs assessment, his or her criminal record, his or her conduct, employment, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his or her offense, the results of his or her most recent risk and needs assessment, and his or her previous social history to the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.
- (2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner, including the results of his or her most recent risk and needs assessment, and shall have him or her appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class C felonies not included within the definition of "violent offender" in KRS 439.3401 and Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his or her proper employment or for his or her maintenance and care, and when the board believes he or she is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in this subsection, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.
- (3)
 - (a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years who is confined to a state penal institution or county jail shall have his or her case reviewed by the Parole Board after serving fifteen percent (15%) or two (2) months of the original sentence, whichever is longer.
 - (b) Except as provided in this section, the board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria and risk and needs assessment information; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.
- (4) The board shall insure that all sentenced felons who have longer than ninety (90) days to serve in state penal institutions, halfway houses, *reentry centers*, and county jails are considered for parole not less than sixty (60) days prior to their parole eligibility date, and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.
- (5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45)

nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

- (6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.
- (7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.
- (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.
- (9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.
- (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his or her agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.
- (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he or she has successfully completed the Sexual Offender Treatment Program.
- (12) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his or her parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.
- (13) When the board grants parole contingent upon completion of a program, the commissioner, or his or her designee, shall determine the most appropriate placement in a program operated by the department or a residential or nonresidential program within the community approved by the department. If the department releases a parolee to a nonresidential program, the department shall release the parolee only if he or she will have appropriate community housing pursuant to KRS 439.3408.

(14) If the parole board does not grant parole to a prisoner, the maximum deferment for a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be twenty-four (24) months. For all other prisoners who are eligible for parole:

- (a) No parole deferment greater than five (5) years shall be ordered unless approved by a majority vote of the full board; and
- (b) No deferment shall exceed ten (10) years, except for life sentences.

(15) When an order for parole is issued, it shall recite the conditions thereof.

➔Section 92. KRS 439.3407 is amended to read as follows:

- (1) The department may promulgate administrative regulations to implement conditional parole of state inmates incarcerated in state corrections institutions or local correctional facilities or county jails to place those individuals closer to their communities prior to release. A parolee placed on conditional parole shall serve that term in a local correctional facility or county jail *or reentry center* in a county in which the fiscal court has agreed to house parolees if beds are available in the local correctional facility or county jail *or reentry center*.
- (2) The department may authorize parolees on conditional parole to be placed on work release. If a person placed in a county jail on conditional parole under subsection (1) of this section is granted work release, he or she shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a parolee shall be deducted from the amount which the Department of Corrections shall pay for the placement of that parolee.
- (3) Local correctional facilities or county jails housing parolees under subsection (1) of this section shall have the same rights and obligations as county jails housing felons pursuant to KRS 532.100.
- (4) Administrative regulations promulgated pursuant to subsection (1) of this section relating to eligibility of an individual for conditional parole shall take into consideration, at a minimum, the following information about the individual:
 - (a) The offense for which the individual was convicted and his or her rehabilitation efforts while incarcerated;
 - (b) The security classification while incarcerated in the state correctional institution;
 - (c) Conduct while incarcerated in the state correctional institution;
 - (d) Ability to find employment in the community; and
 - (e) The availability of additional applicable education, treatment or intervention, and training for employment in the local correctional facility or county jail, if needed by the individual.

➔Section 93. KRS 439.3408 is amended to read as follows:

When considering appropriate housing options for a person considered for parole or a person who is being paroled, the department shall approve any form of acceptable housing, including but not limited to apartments, shelters for homeless or other persons, county jails or restricted custody facilities that a county approves for parolees, educational institutions with dormitories if the parolee is enrolled or accepted for enrollment at an educational institution, halfway houses, *reentry centers*, residential treatment or other programs in which the parolee is enrolled or accepted for enrollment, and other forms of transitional housing meeting the requirements of applicable statutes.

➔Section 94. 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) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;

- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;
- (10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (14) "Directors," when applied to corporations, includes managers or trustees;
- (15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (16) "Domestic animal" means any animal converted to domestic habitat;
- (17) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (18) "Federal" refers to the United States;
- (19) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;
- (20) "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;
- (21) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; **reentry centers**; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;

- (22) "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;
- (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (25) "Legatee" and "devisee" convey the same idea;
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "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;
- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;
- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
 - (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;
- (37) "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;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;
- (39) "Shall" is mandatory;
- (40) "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;
- (41) "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;
- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;
- (46) "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;
- (47) "Violate" includes failure to comply with;
- (48) "Will" includes codicils; "last will" means last will and testament;
- (49) "Year" means calendar year;
- (50) "City" includes town;
- (51) 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 branch budget bill as provided for in KRS Chapter 48;
- (52) "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;
- (53) "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;
- (54) "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;
- (55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards; and
- (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association.

➔Section 95. KRS 532.262 is amended to read as follows:

When considering appropriate housing for a prisoner who is considered for or who is granted conditional release pursuant to KRS 532.260, the Department of Corrections shall approve any form of acceptable housing, including but not limited to apartments, shelters for the homeless or other persons, county jails or restricted custody facilities that a county approves for persons granted conditional release, educational institutions with dormitories if the releasee is enrolled or accepted for enrollment at an educational institution, halfway houses, *reentry centers*, residential treatment or other programs in which the releasee is enrolled or accepted for enrollment, and other forms of transitional housing meeting the requirements of applicable statutes.

➔Section 96. KRS 533.010 is amended to read as follows:

- (1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.

- (2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the defendant's risk and needs assessment, nature and circumstances of the crime, and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:
 - (a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;
 - (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (3) In the event the court determines that probation is not appropriate after due consideration of the defendant's risk and needs assessment, nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:
 - (a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;
 - (b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the defendant's risk and needs assessment and the fact that:
 - (a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;
 - (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or
 - (c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.
- (5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.
- (6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:
 - (a) To a halfway house for no more than twelve (12) months;
 - (b) To home incarceration with or without work release for no more than twelve (12) months;
 - (c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;
 - (d) To a residential treatment program for the abuse of alcohol or controlled substances;~~[-or]~~
 - (e) ***To a reentry center for no more than twelve (12) months; or***
 - (f) To any other specified counseling program, rehabilitation or treatment program, or facility.
- (7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.

- (8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:
- (a) A defendant sentenced to a halfway house shall:
 - 1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;
 - 2. Pay restitution during the term of probation; and
 - 3. Have no contact with the victim of the defendant's crime;
 - (b) A defendant sentenced to home incarceration shall:
 - 1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;
 - 2. Pay restitution during the term of home incarceration;
 - 3. Enter a treatment program, if appropriate;
 - 4. Pay all or some portion of the cost of home incarceration as determined by the court;
 - 5. Comply with other conditions as specified; and
 - 6. Have no contact with the victim of the defendant's crime;
 - (c) A defendant sentenced to jail with community service shall:
 - 1. Pay restitution during all or some part of the defendant's term of probation; and
 - 2. Have no contact with the victim of the defendant's crime;~~or~~
 - (d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:
 - 1. Undergo mandatory drug screening during term of probation;
 - 2. Be subject to active, supervised probation for a term of five (5) years;
 - 3. Undergo aftercare as required by the treatment program;
 - 4. Pay restitution during the term of probation; and
 - 5. Have no contact with the victim of the defendant's crime; *or*
 - (e) *A defendant sentenced to a reentry center shall:*
 - 1. *Be employed in the community or working in a vocational program at the reentry center;*
 - 2. *Be enrolled in a treatment program;*
 - 3. *Pay restitution, fees, and fines during the term of probation; and*
 - 4. *Comply with other conditions as specified.*
- (9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.
- (10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030(6).
- (11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.
- (12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his or her terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.
- (13) The jailer in each county incarcerating Class C or D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the

details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.

- (14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.
- (15) Reimbursement of incarceration costs shall be paid directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.
- (16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

➔Section 97. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice and Public Safety Cabinet.
- (2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the *secretary of the Justice and Public Safety Cabinet* ~~[Kentucky Criminal Justice Council]~~.
- (3) The Criminal Justice Statistical Analysis Center shall:
 - (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky ***through the collection, analysis, assimilation, and analysis of research and statistical data from within the cabinet, from other executive, judicial, and legislative agencies, and from private sources;***
 - (b) Publish research results and statistical data that are requested by criminal justice agencies;
 - (c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and
 - (d) Strengthen the relationship between Kentucky criminal justice agencies and the Bureau of Justice Statistics, United States Department of Justice, by:
 - 1. Providing justice statistics to the Bureau of Justice Statistics as required; and
 - 2. Serving as a clearinghouse for Bureau of Justice Statistics materials.
- (4) The Kentucky Justice and Public Safety Cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice and Public Safety Cabinet may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.
- (5) ***Information and record copies that are confidential under state or federal law and are provided to the Criminal Justice Statistical Analysis Center shall not become the information and records of the center and shall not lose their confidentiality by virtue of the center's access to the information and records. The original information and records used to generate information and record copies provided to the center shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the Criminal Justice Statistical Analysis Center. Information and record copies provided to the Criminal Justice Statistical Analysis Center for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884.***

➔Section 98. KRS 15A.075 is amended to read as follows:

- (1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.
- (2) ***The council shall undertake such research and other activities as may be authorized or directed by:***
 - (a) ***The secretary of the Justice and Public Safety Cabinet; or***
 - (b) ***The General Assembly.***
- (3) The membership of the council shall consist of:
 - (a) The secretary of the Justice and Public Safety Cabinet, ***ex officio*** ~~[who shall serve as the chair];~~

- (b) The Attorney General or his or her designee;
- (c) The chair of the Judiciary Committee of the House of Representatives, *nonvoting ex officio*~~for his or her designee~~;
- (d) The chair of the Judiciary Committee of the Senate, *nonvoting ex officio*~~for his or her designee~~;
- (e) The ~~executive~~ director of the Administrative Office of the Courts, *ex officio*~~for his or her designee~~;
- (f) *The public advocate, ex officio*;
- (g)~~(f)~~ The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;
- (h)~~(g)~~ The *commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, ex officio*~~deputy secretary of the Justice and Public Safety Cabinet, who shall serve as the deputy chair~~;
- (i)~~(h)~~ The commissioner of the Department of Kentucky State Police or his or her designee;
- (j)~~(i)~~ ~~The commissioner of the Department of Criminal Justice Training or his or her designee~~;
- ~~(j)~~ The commissioner of the Department of Corrections, *ex officio*~~for his or her designee~~;
- (k) The commissioner of the Department of Juvenile Justice, *ex officio*~~for his or her designee~~; and
- (l) *Six (6) at-large members appointed by the Governor, as follows:*
 - 1. *One (1) District Judge and one (1) Circuit Judge nominated by the Chief Justice of the Kentucky Supreme Court;*
 - 2. *One (1) member representing law enforcement;*
 - 3. *One (1) member of the County Attorneys' Association;*
 - 4. *One (1) member of the Commonwealth Attorneys' Association; and*
 - 5. *One (1) member representing community-based organizations, whether for-profit or nonprofit, with experience in programs such as substance abuse prevention and treatment, case management, mental health, or counseling*~~A representative of the County Attorneys Association;~~
- ~~(m)~~ The Public Advocate of Kentucky or his or her designee; and
- ~~(n)~~ A representative of the Commonwealth's Attorneys Association}.
- ~~(4)~~~~(3)~~ *The chairs of the House and Senate Judiciary Committees shall serve as co-chairs.*
- (5) *At-large members shall be appointed by August 1, 2017, and shall serve a term of two (2) years, and may be reappointed.*
- (6) *Each ex officio member, except for legislative members, may designate a proxy by written notice to the council prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.*
- ~~(7)~~ ~~The council shall undertake such research and other activities as may be authorized or directed by:~~
 - ~~(a)~~ ~~The secretary of the Justice and Public Safety Cabinet; or~~
 - ~~(b)~~ ~~The General Assembly.~~
- ~~(4)~~ Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. *The council shall meet at least quarterly. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair*~~The council shall meet on the call of its chair~~.
- ~~(8)~~~~(5)~~ A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.
- ~~(9)~~~~(6)~~ The council is authorized to establish committees and appoint additional persons who may not be members of the council, as necessary to effectuate its purposes.
- ~~(10)~~~~(7)~~ The council's administrative functions shall be performed by the executive director of the Office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety

Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

➔SECTION 99. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Cost savings" means the ending balance excluding any necessary government expenses as identified in an enacted appropriations bill and any agency transfers that occurred in the same fiscal year from which an ending balance is realized;*
- (b) *"Criminal justice reinvestment fund" means the fund established in Section 100 of this Act; and*
- (c) *"Ending balance" means the remaining general fund moneys unexpended for the fiscal year in which those funds were appropriated by the General Assembly.*

(2) *Beginning with the close of fiscal year 2017-2018 and each fiscal year thereafter, the department shall measure and document cost savings based on an ending balance created as a result of this Act. Calculations shall be based on the department's overall general fund appropriation. Measured and documented cost savings shall be reinvested and appropriated as provided in Section 100 of this Act.*

- (3) (a) *Notwithstanding KRS 45.229, any cost savings calculated pursuant to subsection (2) of this section shall not lapse but shall be deposited by the department into the criminal justice reinvestment fund.*
- (b) *If no cost savings are calculated pursuant to subsection (2) of this section, no funds shall be deposited into the criminal justice reinvestment fund.*

➔SECTION 100. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) *The criminal justice reinvestment fund is created as a trust fund. The trust fund shall consist of funds deposited pursuant to Section 99 of this Act and shall be appropriated for the purposes set forth in subsection (3) of this section. The department shall administer the fund.*

(2) *Any interest earned on moneys in the fund shall become a part of the fund and shall not lapse.*

(3) *All funds in the criminal justice reinvestment fund shall be appropriated ninety (90) days after the close of the fiscal year as follows:*

- (a) *Twenty percent (20%) to the department for expanding and enhancing evidence-based substance use disorder treatment programs for inmates;*
- (b) *Twenty percent (20%) to the Office of Drug Control Policy for expanding and enhancing evidence-based substance use disorder treatment programs, including but not limited to treatment for neonatal abstinence syndrome;*
- (c) *Twenty percent (20%) to the crime victim's compensation fund established in KRS 346.185;*
- (d) *Twenty percent (20%) to the department for reentry services, including but not limited to vocational training; and*
- (e) *Twenty percent (20%) to the community corrections fund established in KRS 196.732.*

(4) *For programs that receive funding under subsection (3) of this section, the moneys appropriated pursuant to this section shall not be used to replace any other state or county appropriations that the programs would have received if not for the appropriation made pursuant to this section.*

Signed by Governor April 10, 2017.

CHAPTER 159

(HB 33)

AN ACT relating to school notification of persons authorized to contact or remove a child.

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

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

- (1) *If, as a result of dependency, neglect, or abuse, custody of a child is granted to the cabinet through an emergency, temporary, or permanent court order, the cabinet shall notify the principal, assistant principal, or guidance counselor of the school in which the child is enrolled of the names of persons authorized to contact the child at school, in accordance with school visitation or communication policy, or remove the child from school grounds.*
- (2) *The notification required by this section shall be provided to the school:*
 - (a) *Verbally and documented in writing by the principal, assistant principal, or guidance counselor on the day that a court order is entered and again on any day that a change is made with regard to persons authorized to contact or remove the child from school . The verbal notification shall occur on the next school day immediately following the day a court order is entered or a change is made if the court order or change occurs after the end of the current school day; and*
 - (b) *By written document within ten (10) calendar days following a change of custody or change in contact or removal authority.*
- (3) *The cabinet's mandate to provide the information required by this section shall cease when the court order under which the cabinet acts is rescinded or otherwise expires.*

Signed by Governor April 10, 2017.

CHAPTER 160

(HB 241)

AN ACT relating to student athlete safety.

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

➔Section 1. KRS 160.445 is amended to read as follows:

- (1) (a) The Kentucky Board of Education or organization or agency designated by the board to manage interscholastic athletics shall require each interscholastic coach to complete a sports safety course consisting of training on how to prevent common injuries. The content of the course shall include but not be limited to emergency planning, heat and cold illnesses, emergency recognition, head injuries including concussions, neck injuries, facial injuries, and principles of first aid. The course shall also be focused on safety education and shall not include coaching principles.
- (b) The state board or its agency shall:
 1. Establish a minimum timeline for a coach to complete the course;
 2. Approve providers of a sports safety course;
 3. Be responsible for ensuring that an approved course is taught by qualified professionals who shall either be athletic trainers, registered nurses, physicians, or physician's assistants licensed to practice in Kentucky; and
 4. Establish the minimum qualifying score for successful course completion.
- (c) A course shall be reviewed for updates at least once every thirty (30) months and revised if needed.
- (d) A course shall be able to be completed through hands-on or online teaching methods in ten (10) clock hours or less.
- (e)
 1. A course shall include an end-of-course examination with a minimum qualifying score for successful course completion established by the board or its agency.
 2. All coaches shall be required to take the end-of-course examination and shall obtain at least the minimum qualifying score.

- (f) Beginning with the 2009-2010 school year, and each year thereafter, at least one (1) person who has completed the course shall be at every interscholastic athletic practice and competition.
- (2) (a) Beginning with the 2012-2013 school year, and each year thereafter, the state board or its agency shall require each interscholastic coach to complete training on how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion. The training shall be approved by the state board or its agency and may be included in the sports safety course required under subsection (1)(a) of this section.
- (b) The board or its agency shall develop guidelines and other pertinent information or adopt materials produced by other agencies to inform and educate student athletes and their parents or legal guardians of the nature and risk of concussion and head injury, including the continuance of play after concussion or head injury. Any required physical examination and parental authorization shall include acknowledgement of the education information required under this paragraph.
- (c) Upon request, the board or its agency shall make available to the public any training materials developed by the board or agency used to satisfy the requirements of paragraph (a) of this subsection. The board or its agency shall not be held liable for the use of any training materials so disseminated.
- (3) (a) A student athlete suspected by an interscholastic coach, school athletic personnel, or contest official of sustaining a concussion during an athletic practice or competition shall be removed from play at that time and shall not return to play prior to the ending of the practice or competition until the athlete is evaluated to determine if a concussion has occurred. The evaluation shall be completed by a physician or a licensed health care provider whose scope of practice and training includes the evaluation and management of concussions and other brain injuries. A student athlete shall not return to play on the date of a suspected concussion absent the required evaluation.
- (b) **1. Upon completion of the required evaluation, a coach:**
 - a. May return a student athlete to play if the physician or licensed health care provider determines that no concussion has occurred; or**
 - b. Shall not return a student athlete to play if the physician or licensed health care provider determines that a concussion has occurred.**
- 2. If no physician or licensed health care provider described in paragraph (a) of this subsection is present at the practice or competition to perform the required evaluation, a coach shall not return a student athlete to play who is suspected of sustaining a concussion. The student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.**~~[A student athlete may return to play if it is determined no concussion has occurred.]~~
- (c) A student athlete deemed to be concussed shall not return to participate in any athletic practice or competition occurring on the day of the injury. The injured student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.
- (4) (a) The state board or its agency shall adopt rules governing interscholastic athletics conducted by local boards of education to require each school that participates in interscholastic athletics to develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall:
 - 1. Include a delineation of role, methods of communication, available emergency equipment, and access to and plan for emergency transport; and
 - 2. Be in writing, reviewed by the principal of the school, distributed to all appropriate personnel, posted conspicuously at all venues, and reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletics.
- (b) Each school shall submit annual written verification of the existence of a venue-specific emergency action plan to the state board or its agency.
- (5) Each school shall maintain complete and accurate records of its compliance with this section and shall make the records available for review by the state board or its agency upon request.

Signed by Governor April 10, 2017.

CHAPTER 161**(HB 376)**

AN ACT relating to reorganization.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.

- (h) Office of the Kentucky State Medical Examiner.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department for Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.

2. Division of Certification.
3. Division of Professional Learning and Assessment.
4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.

4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 1. Property and Casualty Division.

2. Health and Life Division.
3. Division of Financial Standards and Examination.
4. Division of Agent Licensing.
5. Division of Insurance Fraud Investigation.
6. Consumer Protection Division.
7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.

- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.

- (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.

- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, **Infrastructure, and Technology**.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of **Marketing**~~[Public Affairs]~~.
 - (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.

7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.

- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 2. The General Assembly hereby confirms Executive Order 2016-857, dated December 1, 2016, relating to the reorganization of the Department of Fish and Wildlife Resources, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 10, 2017.

CHAPTER 162

(HB 387)

AN ACT relating to the Executive Branch Code of Ethics.

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

➔Section 1. KRS 11A.080 is amended to read as follows:

- (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.
- (b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.
- (c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.
- (2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:
 - (a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings or, at its discretion, may at any time turn over to the Personnel

Board, ~~or~~ the Auditor of Public Accounts, or **any other agency with jurisdiction to review, audit, or investigate the alleged offense** ~~both~~, evidence which may be used by ~~either or both of~~ those agencies for investigative purposes;

- (b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party;
 - (c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the matter.
- (3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.
- (4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:
- (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or
 - (b) Initiate an administrative proceeding to determine whether there has been a violation.

➔Section 2. KRS 11A.211 is amended to read as follows:

- (1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:
- (a) The name, business address, and occupation of the executive agency lobbyist;
 - (b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;
 - (c) A brief description of the executive agency decision to which the engagement relates;
 - (d) The name of the executive agency or agencies to which the engagement relates; and
 - (e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate.
- (2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.
- (3) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) executive agency lobbyist, the employer shall file only one (1) updated registration statement

under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.

- (4) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.
- (b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.
- (5) Each employer of one (1) or more executive agency lobbyists, and each real party in interest, shall pay a registration fee of **five hundred (\$500) dollars**~~one hundred twenty five dollars (\$125)~~ upon the filing of an updated registration statement. All fees collected by the commission under the provisions of this subsection shall be deposited in the State Treasury in a trust and agency fund account to the credit of the commission. These agency funds shall be used to supplement general fund appropriations for the operations of the commission and shall not lapse. No part of the trust and agency fund account shall revert to the general funds of this state.
- (6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance through the thirty-first day of July of the following year.
- (7) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.
- (8) In the biennial report published under KRS 11A.110(13), the commission shall, in the manner and form the commission determines, include a report containing statistical information on the registration statements filed under this section during the preceding biennium.
- (9) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.
- (10) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his employer, and any real party in interest are in compliance with this section.

Signed by Governor April 10, 2017.

CHAPTER 163

(HB 492)

AN ACT relating to temporary custody orders.

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

➔Section 1. KRS 403.280 is amended to read as follows:

- (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits. *If the parents or a de facto custodian joined under subsection (9) of this section present a temporary custody agreement and mutually agreed plan for parenting time, and the court confirms that the agreement adequately provides for the welfare of the child, the agreement shall become the temporary custody order of the court.*
- (2) *In making an order for temporary custody, there shall be a presumption, rebuttable by preponderance of evidence, that the parents or a de facto custodian joined under subsection (9) of this section shall have temporary joint custody and shall share equally in parenting time.*
- (3) *If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian joined under subsection (9) of this section has with the child and is consistent with ensuring the child's welfare.*
- (4) *Each temporary custody order shall include specific findings of fact and conclusions of law, except when the court confirms the agreement of the parties.*
- (5) *Any temporary custody order shall address the circumstance in which physical possession of the child will be exchanged.*
- (6) *Subject to KRS 403.320(4) and 403.340(5), modification of a temporary custody order may be sought when there is a material and substantial change in the circumstances of the parents, de facto custodian, or child.*
- (7) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.
- ~~(8)(3)~~ If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any temporary custody order is vacated.
- ~~(9)(4)~~ If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Signed by Governor April 10, 2017.

CHAPTER 164

(HB 156)

AN ACT relating to economic development and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Coal Fields Endowment Authority is hereby created as a public corporation, governmental agency, and instrumentality of the Commonwealth, with the perpetual succession and with power in that name to:*
 - (a) *Contract and be contracted with;*
 - (b) *Acquire and convey property;*
 - (c) *Sue and be sued;*
 - (d) *Have and use a corporate seal;*
 - (e) *Adopt bylaws;*
 - (f) *Invest moneys; and*

- (g) *Exercise, in addition to the powers and functions specifically stated in this section and Section 2 of this Act, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers or limitations upon public corporations.*
- (2) *It shall be the role and duty of the authority to support through funding efforts to diversify the economy of the coal fields within Kentucky.*
 - (a) *Projects that may be funded shall be non-recurring investments in:*
 - 1. *Economic development;*
 - 2. *Public infrastructure, water, and wastewater;*
 - 3. *Public health and safety; and*
 - 4. *Information technology development and access.*
 - (b) *Projects shall be selected based on economic impact, job creation, workforce development, community benefit, available partnerships, project readiness, and the ability for a project to be self-sustaining.*
- (3) *Seven million five hundred thousand dollars (\$7,500,000) of the severance and processing taxes on coal collected annually shall be transferred from the general fund to the Kentucky coal fields endowment authority established in this section. The transfers shall be made in quarterly amounts of one million eight hundred seventy-five thousand dollars (\$1,875,000) at the same time as the transfers to the local government economic development fund.*
- (4) *Moneys transferred to the authority are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purpose. State moneys appropriated that are not spent at the end of the fiscal year shall not lapse.*
- (5) *All property and income of the Kentucky coal fields endowment authority shall be exempt from all taxes and assessment of any nature.*

➔SECTION 2. A NEW SECTION OF KRS 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Authority" means the Kentucky coal fields endowment authority;*
 - (b) *"Board" means the chair, vice chair, and secretary-treasurer of the authority;*
 - (c) *"Chair" means the chair of the Kentucky coal fields endowment authority;*
 - (d) *"Commissioner" means the commissioner of the Department for Local Government; and*
 - (e) *"Eligible counties" means counties of the Commonwealth of Kentucky participating in the Local Government Economic Development Fund on the effective date of this Act and those that participated on January 1, 2016;*
- (2) *The authority shall consist of seven (7) persons, who shall be selected as follows:*
 - (a) *Two (2) persons, appointed by the Governor, from counties located within the Eastern Coal Field;*
 - (b) *Two (2) persons, appointed by the Governor, from counties located within the Western Coal Field;*
 - (c) *Two (2) persons, appointed by the Governor, possessing experience and expertise in finance and investment; and*
 - (d) *The commissioner or the commissioner's proxy.*
- (3) *Two (2) members initially appointed to the authority shall have a term of one (1) year each, two (2) members initially appointed to the authority shall have a term of two (2) years each, and two (2) members initially appointed to the authority shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of three (3) years.*
- (4) *The board members are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.*

- (5) *If any member or officer of the authority shall be interested in, either directly or indirectly, or shall be an officer of, employee of, or have an ownership interest in any firm or corporation interested directly or indirectly in any project funded by the authority, the interest shall be disclosed clearly in the application and shall be set forth in the minutes of the authority, and the member or officer having an interest therein shall not participate in the application process.*
- (6) *Any person appointed to the authority shall be eligible for reappointment.*
- (7) *The members of the authority shall elect biennially from the authority's membership the following offices: chair, vice chair, secretary-treasurer, and any assistant secretaries and assistant treasurers the authority deems necessary. The commissioner shall not be eligible to hold any of these offices.*
- (8) *A majority of the members of the authority, determined by excluding any existing vacancies from the total number of members, shall constitute a quorum. A majority vote of the members present at a duly called meeting of the authority shall be required for the purposes of conducting its business and exercising its powers and for all other purposes.*
- (9) *The authority shall prepare bylaws and procedures applicable to the operation of the authority and submit them to the commissioner to be promulgated as administrative regulations in accordance with KRS Chapter 13A.*
- (10) *Members of the authority shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.*
- (11) *The authority shall meet twice annually and at other times upon call of the chair or a majority of the board to discuss and vote on funding for projects in eligible counties permitted to receive moneys from the authority under subsection (2) of Section 1 of this Act.*
- (12) *The authority may invest any and all of the assets of the fund 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 or government-sponsored enterprise, 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 statistical rating organization 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 the highest short-term category by a nationally recognized statistical rating organization;*

- (e) *Commercial paper rated in the highest short-term category by a nationally recognized statistical rating organization;*
- (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 long-term categories by a nationally recognized statistical rating organization;*
- (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 long-term categories by a nationally recognized statistical rating organization;*
- (h) *Asset-backed securities rated in the highest category by a nationally recognized statistical rating organization;*
- (i) *Shares of mutual funds, 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; and*
 - 3. *The mutual fund shall be rated in the highest category by a nationally recognized statistical rating organization; 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.*

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

As used in Sections 3 to 7 of this Act, unless the context requires otherwise:

- (1) *"Authority" or "KMRRA" means the Kentucky Mountain Regional Recreation Authority established in Section 4 of this Act;*
- (2) *"Board" means the board of directors of KMRRA;*
- (3) *"County" means a county, charter county, urban-county government, unified local government, or consolidated local government;*
- (4) *"Kentucky Mountain Recreational Area" or "KMRA" means lands on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the KMRRA as a part of the KMRA;*
- (5) *"Land" means roads, water, watercourses, buildings, structures, and machinery or equipment thereon when attached to the realty;*
- (6) *"Landowner" means a tenant, lessee, occupant, or person in control of the premises;*
- (7) *"Participating county" means a county that has qualified under subsection (5) of Section 4 of this Act;*
- (8) *"Participating landowner" means a landowner who owns land in a participating county and has a contractual agreement with the KMRRA for trail development as part of the KMRA;*
- (9) *"Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing, fishing, swimming, archaeological activities, nature study, off-highway vehicle driving, pleasure driving, watersports, winter sports, visiting or viewing historical or scenic sites, and otherwise using land for purposes pertaining to recreation or trail activities; and*
- (10) *"Target county" means Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Morgan, Owsley, Perry, Pike, Powell, or Wolfe County.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Mountain Regional Recreation Authority is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth and shall exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth. The authority shall be a public body corporate and politic and an instrumentality of the Commonwealth, established with all the general corporate powers incidental thereto. The authority shall be attached to the Kentucky Department for Local Government for administrative purposes only. The authority shall be authorized for an initial period of five (5) years from the effective date of this Act and may be renewed by the General Assembly. The authority may adopt by laws and administrative regulations, subject to KRS Chapter 13A, for the orderly conduct of its affairs.*
- (2) *The purpose of the authority is to establish, maintain, and promote a recreational trail system throughout the KMRA to increase economic development, tourism, and outdoor recreation for residents and visitors. The recreational trail system shall be located with significant portions of the system situated on private property made available for use through lease, license, easement, or other appropriate legal form by willing landowners.*
- (3) *The authority shall be governed by a board of directors consisting of representatives from participating counties and the Commonwealth as provided in this section.*
- (4) *The authority and board shall become operational when sixteen (16) target counties complete the requirements established by subsection (5)(a)1. of this section. When at least sixteen (16) target counties become participating counties, the commissioner of the Department for Local government shall notify the county judge/executive of each of the participating counties, as well as the board members described in subsection (6) of this section, that the requirements have been met for the authority and board to become operational. The commissioner shall also establish a date, time, and place for an initial organizational meeting of the board, and shall serve as interim chair of the initial organizational meeting until such time as a chair is elected. The chair shall be a resident of a participating county.*
- (5) *To become a participating county, a county shall meet one (1) of the following:*
 - (a) *Any target county may become a participating county upon adoption of a resolution or ordinance by the governing body of the county specifically approving the county's participation in the KMRA and submission of the adopted resolution or ordinance to:*
 1. *The commissioner of the Department for Local Government if the resolution or ordinance is adopted prior to the KMRA becoming operational pursuant to subsection (4) of this section; or*
 2. *The KMRA if the resolution or ordinance is adopted after KMRA becomes operational; or*
 - (b) *Any county that is not a target county and is contiguous to a target county may become a participating county through an application process developed by the KMRA. The application shall be approved or rejected by a majority of the board's voting members.*
- (6) *The KMRA board shall consist of the following members:*
 - (a) *The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;*
 - (b) *The commissioner of the Department for Local Government or his or her designee;*
 - (c) *The executive director of the authority, who shall serve as a nonvoting member;*
 - (d) *One (1) representative from each participating county, who shall be either:*
 1. *The county judge/executive; or*
 2. *The county judge/executive's designee, who shall be an individual involved with economic development, tourism, recreation, or a related area within the county;*
 - (e) *One (1) landowner or his or her designee, who shall be selected by participating landowners;*
 - (f) *One (1) state Representative, who shall serve as a nonvoting member, appointed to an annual term by the Speaker of the Kentucky House of Representatives; and*
 - (g) *One (1) state Senator, who shall serve as a nonvoting member, appointed to an annual term by the President of the Kentucky Senate.*
- (7) (a) *The board membership of each county judge/executive or his or her designee shall:*

1. *Begin with the county judge/executive's term of office; and*
2. *End with the county judge/executive's term of office.*

If a county judge/executive ceases to serve as the county judge/executive prior to the end of his or her term, he or she shall be removed from the board, and his or her replacement as county judge/executive shall serve on the board for the remainder of the term.

- (b) *The term of the landowner member shall be four (4) years, and he or she may be reappointed for one (1) successive term.*
- (8) (a) *The twelve (12) voting members of the board shall be:*
 1. *Nine (9) of the county representatives or their designees described in subsection (6)(d) of this section who have been accorded voting status under paragraphs (b) to (e) of this subsection;*
 2. *One (1) landowner or his or her designee described in subsection (6)(e) of this section;*
 3. *The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee; and*
 4. *The commissioner of the Department for Local Government or his or her designee.*
- (b) *The nine (9) initial county representatives shall be the county judges/executive of Breathitt, Martin, Perry, Knott, Leslie, Letcher, Pike, Magoffin, and Floyd Counties or their designees in that order. The first three (3) representatives listed shall serve a three (3) year term as voting members, the next three (3) representatives shall serve a two (2) year term as voting members, and the remaining three (3) representatives shall serve a one (1) year term as voting members.*
- (c) *After each term ends, the voting county representative shall be replaced by one (1) of the county judges/executive or his or her designee from one (1) of the target counties whose representative has not yet served as a voting member.*
- (d) *After the third year of operation, each new voting member shall serve a term of three (3) years, then step down and let a representative from a county whose representative has not served as a voting member take his or her place.*
- (e) *Once representatives from all participating counties within KMRA have each served one (1) term, the rotation shall begin again. The rotation order may vary as long as no participating county has a representative serve as a voting member more than four (4) years more than any other county in a four (4) year period.*
- (9) (a) *The board shall meet at least once every quarter to elect officers, establish a regular meeting schedule, and perform other duties as may be prescribed in the authority's bylaws. The board chair may call special meetings at any time.*
- (b) *Notice of each meeting shall be made in writing and delivered to board members at least seven (7) days before the scheduled meeting date. Electronic mail is an acceptable form of notice of special meetings, so long as it is sent to directors at least seven (7) days before the scheduled meeting date.*
- (c) *The presence of a majority of the total voting members of the KMRRRA board shall constitute a quorum. Vacant board positions shall be counted against the quorum total necessary for board action.*
- (10) *The KMRRRA board:*
 - (a) *Shall elect a chair, vice chair, secretary, treasurer, and any other officers as established in the bylaws of the board;*
 - (b) *May appoint temporary and standing committees to accomplish the purposes of Sections 3 to 7 of this Act and shall clearly describe the role, responsibilities, and tenure of each committee so created;*
 - (c) *Shall adopt bylaws for the management and regulation of its affairs and all other matters necessary to effect proper management and accountability of the board. The bylaws shall include, at a minimum, the following:*
 1. *The powers and duties of the board's members and the manner and number of officers to be elected from among the board members;*
 2. *The terms, conditions, and manner in which a board member will be removed; and*

3. *The terms and conditions under which a board member will be paid to attend meetings, if at all, and the extent to which members will be reimbursed for travel and other expenses and any requirements for approval of expense reports, if applicable;*
- (d) *Shall review and approve an annual budget;*
- (e) *Shall annually procure an audit of the authority's financial systems, conducted in accordance with generally accepted auditing standards. The Auditor of Public Accounts shall perform the audit. A copy of the audit shall be sent to the Legislative Research Commission within ten (10) days of receipt by the board;*
- (f) *Shall ensure that all administrative costs for operating the authority are paid from funds accruing to the authority. The authority, its board, and its staff shall incur no liability or obligation beyond the extent to which revenues have been provided under Sections 3 to 7 of this Act;*
- (g) *May seek administrative and management assistance through written agreement with state agencies, local area development districts, or local governing bodies until such time as the board has secured sufficient funding through grants, loans, fee systems, or any other funding source to hire staff;*
- (h) *Shall employ an executive director to act as its chief executive officer to serve at its will and pleasure; and*
- (i) *Shall establish personnel, retirement, and benefit systems through professional programs approved by the board.*
- (11) *The executive director:*
 - (a) *May, with permission of the board, employ any other personnel considered necessary, retain temporary services, and retain consultants;*
 - (b) *Shall carry out plans to implement Sections 3 to 7 of this Act and to exercise those powers enumerated in the bylaws of the board;*
 - (c) *Shall, along with any staff with responsibilities so delegated by the executive director, ensure that all minutes, records, and orders of the authority and its board are complete and available for public inspection, if necessary; and*
 - (d) *Shall prepare narrative and financial reports of the authority's fiscal obligations and submit these reports to the board at regularly scheduled meetings or as otherwise directed.*
- (12) *The executive director, all full-time or part-time personnel, all seasonal employees, and all contractual employees, if any, shall be paid from funds accruing to the authority and authorized in a budget approved by the board.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The KMRA shall:*
 - (a) *Supervise the design and construction of trail systems within the KMRA and provide all management functions for the trails and for any other property built, acquired, or leased pursuant to its powers under Sections 3 to 7 of this Act;*
 - (b) *Construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for recreational and trail-related activities and facilities on designated public lands and private lands of participating landowners who have voluntarily entered into use agreements with the board;*
 - (c) *Promote the growth and development of the trail system, tourism, and the hotel, restaurant, and entertainment industry within the KMRA and the Commonwealth, through marketing KMRA to enhance local economic and tourism development;*
 - (d) *Establish agreements with other persons, businesses, agencies, organizations, or any other entity to levy a surcharge on tickets for events, activities, festivals, or functions that are cosponsored with other entities and contribute to the authority's operating revenue; and*
 - (e) *Procure insurance against any losses in connection with its property, licenses, easements, or contracts, including hold-harmless agreements, operations, or assets in such amounts and from such insurers as the board considers desirable.*

- (2) *The board's management program shall prioritize contractual arrangements with private landowners to use land for recreational purposes, which shall not diminish the participating landowner's interest, control, or profitability of the land. If necessary to implement a comprehensive trail system, the board may also contract with public landowners through contractual agreements that recognize the primary mission for which the public entity controls and manages the land.*
- (3) *The board may carry out any of the following to accomplish the purposes of Sections 3 to 7 of this Act:*
- (a) *Acquire, own, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission, except that the authority shall not acquire property through the exercise of the power of eminent domain;*
 - (b) *Dispose of any property acquired in any manner provided by law;*
 - (c) *Lease property, whether as lessee or lessor, and acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;*
 - (d) *Mortgage or otherwise grant security interests in its property;*
 - (e) *Maintain sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;*
 - (f) *Sue and be sued, plead and be impleaded, and complain and defend in any court;*
 - (g) *Make contracts and execute instruments necessary for carrying on its business, including contracts with any Kentucky state agency, the federal government, or any person, individual, partnership, or corporation to effect any or all of the purposes of Sections 3 to 7 of this Act;*
 - (h) *Accept grants and loans from and enter into contracts and other transactions with any federal agency, regional commission, or state agency for accomplishing the purposes of Sections 3 to 7 of this Act;*
 - (i) *Maintain an office at any place within the KMRA as the board may designate;*
 - (j) *Borrow money and issue bonds, security interests, or notes;*
 - (k) *Provide for and secure the payment of the bonds, security interests, or notes;*
 - (l) *Provide for the rights of the holders of the bonds, security interests, or notes;*
 - (m) *Purchase, hold, and dispose of any of its bonds, security interests, or notes;*
 - (n) *Accept gifts or grants of property, security interests, money, labor, supplies, or services from any governmental unit or from any person, firm, or corporation;*
 - (o) *Establish a regional recreational trail system based upon contracts and agreements with participating landowners. The board may enter into contracts with landowners, and other persons holding an interest in the land being used for its recreational facilities, to hold those landowners harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the recreational activities operated or managed by the board from any claim, except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;*
 - (p)
 1. *Establish a fee-based system of permits, user registrations, or other trail or facility access mechanisms.*
 2. *The fees may be imposed for access to and use of the trails, parking facilities, visitor centers, or other trail-related recreational purpose facilities or recreation activities that are part of the KMRA or as an admission to an event.*
 3. *The fees shall be decided by the board.*
 4. *The KMRA shall retain and use the revenue from fees for any purposes consistent with Sections 3 to 7 of this Act;*
 - (q) *Promulgate administrative regulations in accordance with KRS Chapter 13A to govern use and maintenance of the KMRA and any other matters for effective management of the KMRA;*

- (r) *Cooperate and contract with the regional recreation authorities of Tennessee, Virginia, West Virginia, and other contiguous states to connect the trails in Kentucky with similar recreation facilities in those states; and*
- (s) *Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.*

(4) *Nothing in this section shall be construed as a waiver of sovereign immunity.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *Revenue bonds and revenue refunding bonds of the authority issued under Sections 3 to 7 of this Act do not constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision, but the bonds shall be payable solely from the funds provided for in Sections 3 to 7 of this Act from revenues resulting from the issuance of bonds.*
- (2) *All bonds shall contain on the face of the bond a statement to the effect that neither the Commonwealth nor any political subdivision of the Commonwealth is obligated to pay the bond or the interest on the bond, except from revenues of the recreational project or projects for which they are issued, and that neither the faith or credit nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal or the interest on the bonds.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

A participating landowner who has a contractual agreement with the KMRRA for use of private land as part of the KMRA does not waive any protection granted to the landowner by KRS 411.190.

➔Section 8. KRS 147A.090 is amended to read as follows:

Each district board of directors shall have the power, duty, and authority to:

- (1) Establish such functional advisory committees as may be necessary and advisable. These functional advisory committees shall be organized to meet such guidelines as may be required for federal or state assistance;
- (2) Conduct the necessary research and studies and coordinate and cooperate with all appropriate groups and agencies in order to develop, and adopt and revise, when necessary, a district development plan or series of plans, including, but not limited to, the following districtwide plan elements: goals and objectives; water and sewer; land-use; and open space and recreation. Such plans shall serve as a general guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships;
- (3) Prepare annually a report of its activities to the cities and counties within the district, the legislature, and the Governor. The board shall make copies of the report available to members of the public within the district;{
and}
- (4) Comply with the provisions of KRS 65A.010 to 65A.090; *and*
- (5) *Cooperate with the Kentucky Mountain Regional Recreation Authority established in Section 4 of this Act for the purpose of establishing, maintaining, and promoting recreational trails to increase economic development, tourism, and outdoor recreation for Kentucky's residents and visitors, not only in eastern Kentucky but throughout the Commonwealth.*

➔Section 9. The following KRS sections are repealed:

148.795 Kentucky Recreational Trails Authority -- Purpose -- Membership -- Meetings -- Land use agreements for recreational purposes -- General use permits -- Authority may hold property for public use -- Proceeds.

148.796 Strategy to increase recreational activity on private land -- Landowner's permission required for entry on private land.

150.091 Enforcement of KRS 148.795 and 148.796 by conservation officers.

Signed by Governor April 10, 2017.

CHAPTER 165

(HB 206)

AN ACT relating to scholarship programs, making an appropriation therefor, and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 164.740 TO 164.7891 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

- (a) *"Academic term" means the fall or spring academic semester;*
- (b) *"Academic year" means July 1 through June 30 of each year;*
- (c) *"Approved dual credit course" means a dual credit course developed in accordance with KRS 164.098 and shall include general education courses and career and technical education courses within a career pathway approved by the Kentucky Department of Education that leads to an industry-recognized credential;*
- (d) *"Authority" means the Kentucky Higher Education Assistance Authority;*
- (e) *"Dual credit" has the same meaning as in KRS 158.007;*
- (f) *"Dual credit tuition rate ceiling" means one-third (1/3) of the per credit hour tuition amount charged by the Kentucky Community and Technical College System for in-state students;*
- (g) *"Eligible high school student" means a student who:*
 - 1. *Is a Kentucky resident;*
 - 2. *Is enrolled in a Kentucky high school as a senior or junior;*
 - 3. *Has completed a thirty (30) minute college success counseling session; and*
 - 4. *Is enrolled, or accepted for enrollment, in an approved dual credit course at a participating institution;*
- (h) *"Participating institution" means a postsecondary institution that:*
 - 1. *Has an agreement with the authority for the administration of the Dual Credit Scholarship Program;*
 - 2. *Charges no more than the dual credit tuition rate ceiling per credit hour, including any additional fees, for any dual credit course it offers to any Kentucky public or nonpublic high school student;*
 - 3. *Does not charge any tuition or fees to an eligible high school student for an approved dual credit course beyond what is paid by the Dual Credit Scholarship Program when the course is not successfully completed; and*
 - 4. *Is a:*
 - a. *Kentucky Community and Technical College System institution;*
 - b. *Four (4) year Kentucky public college or university; or*
 - c. *Four (4) year private college or university that is accredited by the Southern Association of Colleges and Schools and whose main campus is located in Kentucky; and*
- (i) *"Successfully completed" means a student receiving both secondary and postsecondary credit upon completion of an approved dual credit course.*

(2) *To promote dual credit coursework opportunities at no cost to eligible Kentucky high school students, the General Assembly hereby establishes the Dual Credit Scholarship Program.*

(3) *In consultation with the Education and Workforce Development Cabinet, the authority shall administer the Dual Credit Scholarship Program and shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the program.*

- (4) (a) *Each high school shall apply to the authority for dual credit scholarship funds for each eligible high school student.*
- (b) *The authority may award a dual credit scholarship to an eligible high school student for an academic term to the extent funds are available for that purpose, except that a scholarship shall be awarded to an eligible high school senior prior to awarding an eligible high school junior.*
- (c) *An eligible high school student may receive a dual credit scholarship for a maximum of two (2) successfully completed dual credit courses.*
- (d) *The dual credit scholarship award amount shall be equal to the amount charged by a participating institution, not to exceed the dual credit tuition rate ceiling for each dual credit hour, except the scholarship amount shall be reduced by fifty percent (50%) if the dual credit course is not successfully completed by the student.*
- (e) *Dual credit scholarship funds shall not be used for remedial or developmental coursework.*
- (5) *Each participating institution shall submit information each academic term to the authority required for the administration of the scholarship as determined by the authority.*
- (6) *Beginning August 1, 2017, and each year thereafter, the authority shall provide a report to the secretary of the Education and Workforce Development Cabinet, the president of the Council on Postsecondary Education, and the commissioner of the Kentucky Department of Education to include:*
 - (a) *The number of students, by local school district and in total, served by the Dual Credit Scholarship Program; and*
 - (b) *The number of dual credits earned by students by high school and in total.*
- (7) *By May 31, 2019, and each year thereafter, the Kentucky Center for Education and Workforce Statistics, in collaboration with the authority, shall publish data on the Dual Credit Scholarship Program's academic and workforce outcomes. The center shall annually provide a report on the data to the Interim Joint Committee on Education.*
- (8) (a) *The Dual Credit Scholarship Program trust fund is hereby created as a trust fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships described in this section.*
- (b) *The trust fund shall consist of state general fund appropriations, gifts and grants from public and private sources, and federal funds. All moneys included in the fund shall be appropriated for the purposes set forth in this section.*
- (c) *Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.*
- (d) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.*

➔SECTION 2. A NEW SECTION OF KRS 164.7871 TO 164.7885 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Academic year" means July 1 through June 30 of each year;*
- (b) *"Apprentice" has the same meaning as in KRS 343.010;*
- (c) *"Eligible student" means an eligible high school student who has graduated from high school or a student eligible under KRS 164.7879(3)(e);*
- (d) *"Registered apprenticeship program" means an apprenticeship program that:*
 - 1. *Is established in accordance with the requirements of KRS Chapter 343;*
 - 2. *Requires a minimum of two thousand (2,000) hours of on-the-job work experience;*
 - 3. *Requires a minimum of one hundred forty-four (144) hours of related instruction for each year of the apprenticeship; and*

4. *Is approved by the Kentucky Labor Cabinet;*
- (e) *"Related instruction" has the same meaning as in KRS 343.010; and*
- (f) *"Sponsor" has the same meaning as in KRS 343.010.*
- (2) *Notwithstanding KRS 164.7881, an eligible student who earned a KEES award and is an apprentice in a registered apprenticeship program shall be eligible for a Kentucky educational excellence scholarship.*
- (3) (a) *Beginning with the 2018-2019 academic year, an eligible student enrolled in a registered apprenticeship program may receive reimbursement of tuition, books, required tools, and other approved expenses required for participation in the registered apprenticeship program, upon certification by the sponsor and approval by the authority.*
- (b) *The reimbursement amount an eligible student may receive in an academic year shall not exceed the student's KEES award maximum.*
- (c) *The total reimbursement amount an eligible student may receive under this section shall not exceed the student's KEES award maximum multiplied by four (4).*
- (4) *Eligibility for a KEES scholarship under this section shall terminate upon the earlier of:*
- (a) *The expiration of five (5) years following the eligible student's graduation from high school or receiving a GED, except as provided in KRS 164.7881(5); or*
- (b) *The eligible student's successful completion of the registered apprenticeship program.*
- (5) *The authority shall promulgate administrative regulations establishing the procedures for making awards under this section in consultation with the Kentucky Labor Cabinet, the Kentucky Education and Workforce Development Cabinet, and the Kentucky Economic Development Cabinet.*

➔Section 3. Whereas the timely implementation of the scholarship provisions created in this Act are needed to provide immediate financial assistance to Kentucky students, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2017.

CHAPTER 166

(HB 257)

AN ACT relating to the Kentucky Economic Development Partnership and declaring an emergency.

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

➔Section 1. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.
- (2) The board shall set the salary of the secretary *and up to two (2) additional executive officers of the cabinet as determined by the board*, which shall be exempt from state employee salary limitations as set forth in KRS 64.640. *No executive officer of the cabinet shall be paid a salary greater than that of the secretary.*
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.
- (6) The secretary shall give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education and Workforce Development Cabinet.

➔Section 2. Whereas it is critical to the economy and citizens of Kentucky to maintain appropriate staffing for the Cabinet for Economic Development at the executive level and to fill those positions as soon as possible in order to attract new business and investment to the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 10, 2017.

CHAPTER 167

(HB 282)

AN ACT relating to the Justice and Public Safety Cabinet.

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

➔Section 1. KRS 12.020 is amended to read as follows:

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

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

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

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

- (a) Department of Kentucky State Police.
- (b) Department of Criminal Justice Training.
- (c) Department of Corrections.
- (d) Department of Juvenile Justice.
- (e) Office of the Secretary.
- (f) Office of Drug Control Policy.
- (g) Office of Legal Services.
- (h) Office of the Kentucky State Medical Examiner.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department ~~of~~ ^{for} Public Advocacy.

(2) Education and Workforce Development Cabinet:

- (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
- (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.

- a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.

6. Division of Oil and Gas.
7. Division of Mine Safety.
8. Division of Forestry.
9. Division of Conservation.
10. Office of the Reclamation Guaranty Fund.
11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.

1. Division of Depository Institutions.
2. Division of Non-Depository Institutions.
3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.

7. Workers' Compensation Board.
8. Workers' Compensation Advisory Council.
9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.

- b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.

- (k) Kentucky Employees Retirement Systems.
- (l) Commonwealth Credit Union.
- (m) State Investment Commission.
- (n) Kentucky Housing Corporation.
- (o) Kentucky Local Correctional Facilities Construction Authority.
- (p) Kentucky Turnpike Authority.
- (q) Historic Properties Advisory Commission.
- (r) Kentucky Tobacco Settlement Trust Corporation.
- (s) Kentucky Higher Education Assistance Authority.
- (t) Kentucky River Authority.
- (u) Kentucky Teachers' Retirement System Board of Trustees.
- (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Public Affairs.
 - (d) Kentucky Horse Park.

1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.

- 4. Division of Administration.
 - (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
 - (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
 - III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.
 - (4) Kentucky Commission on Human Rights.
 - (5) Kentucky Commission on Women.
 - (6) Department of Veterans' Affairs.
 - (7) Kentucky Commission on Military Affairs.
 - (8) Office of Minority Empowerment.
 - (9) Governor's Council on Wellness and Physical Activity.
- ➔Section 2. KRS 15A.020 is amended to read as follows:
- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 - 1. Training Operations Division;
 - 2. Administrative Division; and
 - 3. Training Support Division;
 - (c) Department of Juvenile Justice, which shall have the following divisions:
 - 1. Division of Medical Services;
 - 2. Division of Western Region;
 - 3. Division of Central Region;
 - 4. Division of Eastern Region;

5. Division of Southeastern Region;
 6. Division of Administrative Services;
 7. Division of Program Services;
 8. Division of Placement Services;
 9. Division of Professional Development; and
 10. Division of Community and Mental Health Services;
- (d) Department of Kentucky State Police, which shall have the following divisions:
1. Administrative Division;
 2. Operations Division;
 3. Technical Services Division; and
 4. Commercial Vehicle Enforcement Division; and
- (e) Department ~~of~~ Public Advocacy, which shall have the following divisions:
1. Protection and Advocacy Division;
 2. Division of Law Operations;
 3. Division of Trial Services;
 4. Division of Post-Trial Services; and
 5. Division of Conflict Services.
- (2) Each department, except for the Department ~~of~~ Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department ~~of~~ Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department ~~of~~ Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department ~~of~~ Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 1. Shall provide legal representation and services for the cabinet; and
 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency,

Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department ~~of~~ Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department ~~of~~ Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 3. KRS 15A.065 is amended to read as follows:

- (1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:
 - (a) Prevention of juvenile crime;
 - (b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;
 - (c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;
 - (d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

- (e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;
 - (f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;
 - (g) Conducting research and comparative experiments to find the most effective means of:
 - 1. Preventing delinquent behavior;
 - 2. Identifying predelinquent youth;
 - 3. Preventing predelinquent youth from becoming delinquent;
 - 4. Assessing the needs of predelinquent and delinquent youth;
 - 5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;
 - 6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and
 - (h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.
- (2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.
- (3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:
- (a) Bidding process; and
 - (b) Emergency acquisition process.
- (4) The Department of Juvenile Justice shall develop programs to:
- (a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;
 - (b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and
 - (c) Provide mental health services to committed youth according to their needs.
- (5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice and Public Safety Cabinet, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.
- (b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be

appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:

1. Three (3) current or former participants in the juvenile justice system;
 2. An employee of the Department of Juvenile Justice;
 3. An employee of the Cabinet for Health and Family Services;
 4. A person operating alternative detention programs;
 5. An employee of the Department of Education;
 6. An employee of the Department ~~of~~for Public Advocacy;
 7. An employee of the Administrative Office of the Courts;
 8. A representative from a private nonprofit organization with an interest in youth services;
 9. A representative from a local juvenile delinquency prevention council;
 10. A member of the Circuit Judges Association;
 11. A member of the District Judges Association;
 12. A member of the County Attorneys Association;
 13. A member of the County Judge/Executives Association;
 14. A person from the business community not associated with any other group listed in this paragraph;
 15. A parent not associated with any other group listed in this paragraph;
 16. A youth advocate not associated with any other group listed in this paragraph;
 17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
 18. A local school district special education administrator not associated with any other group listed in this paragraph;
 19. A peace officer not associated with any other group listed in this paragraph; and
 20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.
- (c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.
- (6) The Department of Juvenile Justice shall, in cooperation with the Department ~~of~~for Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:
- (a) Facility access;
 - (b) Scheduling; and

(c) Access to residents' records.

- (7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

➔Section 4. KRS 15A.160 is amended to read as follows:

The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department ~~of~~ Public Advocacy.

➔Section 5. KRS 15A.300 is amended to read as follows:

- (1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.
- (2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Community Based Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department ~~of~~ Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.
- (3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:
 - (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;
 - (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;
 - (c) Sharing of information as authorized by law to carry out the interagency agreements;
 - (d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and
 - (e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.
- (4) Training of council members shall be the responsibility of the department.
- (5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.
- (6) To assist in the development of a local juvenile delinquency prevention plan, juvenile delinquency prevention councils shall be entitled to request and receive statistical information and aggregate data not descriptive of any readily identifiable person from any public agency, as defined in KRS 61.870.
 - (a) A request for statistical information and aggregate data from the juvenile delinquency prevention council shall be in writing and signed by the chairperson of the council, and shall include a statement of why the information is being requested, why it is needed, and how it will be used by the council.
 - (b) Any public agency receiving a written request from the chairperson of a juvenile delinquency prevention council for aggregate data or statistical information shall provide the requested information or respond to the council stating reasons why the requested information cannot be provided, within thirty (30) days of receiving the request.
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:

- (a) The formation of councils;
- (b) The operation of councils;
- (c) The duties of councils; and
- (d) The administration and operation of the grant program.

➔Section 6. KRS 17.131 is amended to read as follows:

- (1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies, the Courts of Justice, and the Office of Homeland Security. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the Commonwealth Office of Technology are required, the executive director of the Commonwealth Office of Technology shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice and Public Safety Cabinet except the Department ~~of~~^{for} Public Advocacy, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health and Family Services, and any agency with the authority to issue a citation or make an arrest.
- (2) The program to design, implement, and maintain the system shall be under the supervision of the executive director of the Office of Homeland Security, in consultation with the executive director of the Commonwealth Office of Technology and the Administrative Office of the Courts.
- (3) The executive director of the Office of Homeland Security, the executive director of the Commonwealth Office of Technology, and a representative of the Administrative Office of the Courts, or their respective designees, shall be responsible for recommending standards, policies, and other matters to the secretary of justice and public safety for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.
- (4) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.
- (5) All criminal justice and participating public safety agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.
- (6) The executive director of the Commonwealth Office of Technology shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the executive director of the Office of Homeland Security, in consultation with the Commonwealth Office of Technology.
- (7) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the Office of Homeland Security and the Commonwealth Office of Technology.
- (8) As part of the unified criminal justice information system, the executive director of the Office of Homeland Security, in consultation with the secretary of the Justice and Public Safety Cabinet, the executive director of the Commonwealth Office of Technology, and the Administrative Office of the Courts, shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.
- (9) Any criminal justice and public safety agency that does not participate in the system may be denied access to state and federal grant funds.

➔Section 7. KRS 17.150 is amended to read as follows:

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the intellectually disabled; Department of Kentucky State Police; state fire marshal; Board of Alcoholic Beverage Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department ~~of~~^{for} Public Advocacy, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:
 - (a) Install and maintain records needed for reporting data required by the cabinet;
 - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
 - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
 - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
 - (a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;
 - (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
 - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
 - (d) Information contained in the records to be used in a prospective law enforcement action.
- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.
- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.
- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

➔Section 8. KRS 27A.080 is amended to read as follows:

- (1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

- (2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.
- (3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, except the Department ~~of~~for Public Advocacy, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

➔Section 9. KRS 31.010 is amended to read as follows:

There is hereby established as an independent agency of state government, attached for administrative purposes to the Justice and Public Safety Cabinet, the Department ~~of~~for Public Advocacy, in order to provide for the establishment, maintenance, and operation of a state-sponsored and controlled system for:

- (1) The representation of indigent persons accused of crimes or mental states which may result in their incarceration or confinement; and
- (2) The pursuit of legal, administrative, and other appropriate remedies to ensure the protection of the rights of persons with disabilities, independent of any agency that provides treatment, services, or rehabilitation to persons with disabilities. For the purposes of this chapter, "persons with disabilities" shall refer to those persons eligible for protection and advocacy services under Public Laws 99-319, 102-569, 103-218, 106-170, and 106-402 as amended and any other federal enabling statute hereafter enacted that defines the eligible client base for protection and advocacy services.

➔Section 10. KRS 31.015 is amended to read as follows:

- (1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:
 1. Two (2) members appointed by the Governor;
 2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;
 3. Two (2) members appointed by the Kentucky Supreme Court;
 4. Three (3) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him or her for each individual vacancy by the board of governors of the Kentucky Bar Association;
 5. The dean, ex officio, of each of the law schools in Kentucky or his or her designee; and
 6. One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department ~~of~~for Public Advocacy.
- (b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.
- (2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.
- (3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

- (4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without the power to vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his or her term or his or her removal.
- (5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars (\$100) per day for each meeting attended unless prohibited by law from receiving such compensation.
- (6) The commission shall:
 - (a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;
 - (b) Assist the public advocate in drawing up procedures for the selection of his or her staff;
 - (c) Review the performance of the public advocacy system and provide general supervision of the public advocate;
 - (d) Assist the Department ~~of~~for Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and
 - (e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.
- (7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department ~~of~~for Public Advocacy in their handling of individual cases.

➔Section 11. KRS 42.320 is amended to read as follows:

- (1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.
- (2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:
 - (a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;
 - (b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars (\$5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;
 - (c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars (\$3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;
 - (d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;
 - (e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars (\$2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;
 - (f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars (\$1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department ~~of~~for Public Advocacy;
 - (g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars (\$1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;
 - (h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars (\$350,000), shall be paid to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
 - (i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars (\$5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and

- (j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.
- (3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.
- (4) Any moneys collected above the prescribed amount shall be paid into the general fund.

➔Section 12. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall be sentenced to pay a service fee of three hundred seventy-five dollars (\$375), which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid into the general fund, and the remainder of the revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Department of Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department ~~of for~~ Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 - 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 - 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph;
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department ~~of for~~ Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

➔Section 13. KRS 194A.624 is amended to read as follows:

- (1) The Advisory Council on Autism Spectrum Disorders is hereby created and shall be attached to the Office of Autism within the Cabinet for Health and Family Services for administrative purposes.
- (2) The Advisory Council on Autism Spectrum Disorders shall consist of the following members appointed by the Governor:
 - (a) One (1) representative from the Department for Public Health;
 - (b) One (1) representative from the Department for Medicaid Services;

- (c) One (1) representative from the Department for Community Based Services;
 - (d) One (1) representative from the Department ~~of~~^{for} Public Advocacy;
 - (e) One (1) representative from the Department of Education;
 - (f) One (1) representative from the Department of Juvenile Justice;
 - (g) One (1) representative from the Department for Behavioral Health, Developmental and Intellectual Disabilities;
 - (h) One (1) representative from the Commission for Children with Special Health Care Needs;
 - (i) One (1) parent or youth representative from the Commonwealth Council on Developmental Disabilities;
 - (j) One (1) representative from the Kentucky Autism Training Center;
 - (k) One (1) representative from the Office of Vocational Rehabilitation;
 - (l) One (1) representative from the University of Louisville;
 - (m) One (1) representative from the University of Kentucky Human Development Institute;
 - (n) One (1) representative from the University of Kentucky;
 - (o) One (1) representative from the Center for Autism Spectrum Evaluation, Service, and Research;
 - (p) One (1) representative from the Education Professional Standards Board;
 - (q) One (1) pediatrician representative;
 - (r) One (1) representative from the Weisskopf Child Evaluation Center;
 - (s) One (1) representative from the First Steps Program;
 - (t) One (1) representative from the Arc of Kentucky;
 - (u) The director of the Office of Autism;
 - (v) At least one (1) consumer representative, an adult with a diagnosis on the autism spectrum; and
 - (w) Five (5) citizen-at-large members.
- (3) The co-chairs of the Advisory Council on Autism Spectrum Disorders shall be the representatives appointed by the Governor from the University of Kentucky and the University of Louisville.
 - (4) The Advisory Council on Autism Spectrum Disorders may invite individuals who are not members to serve on committees and workgroups.
 - (5) Appointed members of the Advisory Council on Autism Spectrum Disorders shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder. Members of the council shall initially be appointed to serve staggered terms and thereafter shall be appointed to serve a term of four (4) years.
 - (6) The Cabinet for Health and Family Services, the Personnel Cabinet, the Finance and Administration Cabinet, and the Office of the State Budget Director shall take all necessary actions to effectuate this section.
 - (7) The Advisory Council on Autism Spectrum Disorders shall be responsible for:
 - (a) Promoting the vision for Kentucky's services and supports to persons on the autism spectrum and their families and advocating for improved quality and evidence-based practices for persons on the autism spectrum and their families;
 - (b) Promoting the early screening, identification, early intervention, and appropriate use of evidence-based practices and standards of care for persons on the autism spectrum across the lifespan;
 - (c) Strengthening state, regional, and local level collaboration and coordination with families, self-advocates, support groups, and state agencies to further coordinate, develop, and enhance the service delivery system for persons on the autism spectrum across the lifespan;

- (d) Gathering and analyzing research and data to assess the quality and availability of programs and services for persons on the autism spectrum and providing recommendations on assessments, interventions, and treatment modalities across the lifespan;
- (e) Developing recommendations for:
 - 1. Increasing participation in existing federal, state, and local programs that serve children, youth, and adults on the autism spectrum;
 - 2. Enhancing the current professional development and planning for future workforce development to incorporate research and evidence-based practices;
 - 3. Establishing standards of care and undertaking efforts to ensure promotion of these standards statewide; and
 - 4. Promoting the development of services and supports to transition youth and adults on the autism spectrum;
- (f) Assessing the capacity and effectiveness of institutes of higher education in the state toward supporting the development of the workforce for persons on the autism spectrum;
- (g) Requesting and utilizing federal, state, and private funds, including funds from philanthropic sources;
- (h) Improving procedures for ensuring accountability and measuring success of programs that receive state, federal, and philanthropic funds;
- (i) Obtaining reports and issuing progress updates on state and federally funded services that impact the quality of Kentucky's system of care for persons on the autism spectrum;
- (j) Completing a biennial report with the Office of Autism and submitting it to the Commonwealth Council on Developmental Disabilities, the Governor, and the Legislative Research Commission. The first report shall be due on or before September 30, 2017, and subsequent reports shall be due each September 30 in odd-numbered years thereafter; and
- (k) Other duties and responsibilities as designated by the Governor.

➔Section 14. KRS 196.288 is amended to read as follows:

- (1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439, 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented savings shall be reinvested or distributed as provided in this section.
- (2) The department shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.
- (3) The department shall determine the average cost of:
 - (a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year;
 - (b) Providing probation and parole services for one (1) parolee for one (1) year for the immediately preceding fiscal year; and
 - (c) Reentry services and peer support as a condition of parole for those with opiate addiction and other substance abuse disorders.
- (4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated from the baseline established in subsection (2) of this section as follows:
 - (a) The estimated average reduction of inmates due to mandatory reentry supervision as required by KRS 439.3406 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
 - (b) The estimated average reduction of inmates due to accelerated parole hearings as required by KRS 439.340 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
 - (c) The estimated average increase of parolees due to paragraphs (a) and (b) of this subsection multiplied by the average cost as determined in subsection (3)(b) of this section; and

- (d) The estimated average reduction of parolees due to parole credit for good behavior as provided in KRS 439.345 multiplied by the average cost as determined in subsection (3)(b) of this section.
- (5) The following amounts shall be allocated or distributed from the estimated amount of savings that would otherwise remain in the general fund:
 - (a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;
 - (b) Fifty percent (50%) shall be distributed for the following purposes:
 - 1. To the department to provide or to contract for the provision of substance abuse treatment in county jails, regional jails, or other local detention centers that employ evidence-based practices in behavioral health treatment or medically assisted treatment for nonstate inmates with opiate addiction or other substance abuse disorders;
 - 2. For KY-ASAP programs operating under KRS Chapter 15A in county jails or in facilities under the supervision of county jails that employ evidence-based behavioral health treatment or medically assisted treatment for inmates with opiate addiction or other substance abuse disorders;
 - 3. To KY-ASAP to provide supplemental grant funding to community mental health centers for the purpose of offering additional substance abuse treatment resources through programs that employ evidence-based behavioral health treatment or medically assisted treatment;
 - 4. To KY-ASAP to address neonatal abstinence syndrome by providing supplemental grant funding to community substance abuse treatment providers to offer residential treatment services to pregnant women through programs that employ evidence-based behavioral health treatment or medically assisted treatment;
 - 5. To provide supplemental funding for traditional KY-ASAP substance abuse programming under KRS Chapter 15A;
 - 6. To the department for the purchase of an FDA-approved extended-release treatment for the prevention of relapse to opiate dependence with a minimum of fourteen (14) days' effectiveness with an opioid antagonist function for use as a component of evidence-based medically assisted treatment for inmates with opiate addiction or substance abuse disorders participating in a substance abuse treatment program operated or supervised by the department;
 - 7. To the Department ~~of~~for Public Advocacy to provide supplemental funding to the Social Worker Program for the purpose of creating additional social worker positions to develop individualized alternative sentencing plans; and
 - 8. To the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases; and
 - (c) In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:
 - 1. Determine the estimated amount necessary for reinvestment in:
 - a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and
 - b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and
 - 2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.
- (6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.
- (7) (a) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section and shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

- (b) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the judicial branch shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

➔Section 15. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:
 - (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The secretary of the Justice and Public Safety Cabinet;
 - (c) The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Corrections;
 - (f) The commissioner of the Department of Juvenile Justice;
 - (g) The commissioner of the Department of Education;
 - (h) The executive director of the Office of Vocational Rehabilitation;
 - (i) The director of the Protection and Advocacy Division of the Department ~~of for~~ Public Advocacy;
 - (j) The director of the Division of Family Resource and Youth Services Centers;
 - (k) The commissioner of the Department for Aging and Independent Living of the Cabinet for Health and Family Services;
 - (l) The executive director of the Office of Drug Control Policy;
 - (m) The director of the Administrative Office of the Courts;
 - (n) The chief executive officer of the Kentucky Housing Corporation;
 - (o) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
 - (p) The commissioner of the Department of Public Health;
 - (q) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;
 - (r) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - (s) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health and Family Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Programs;
 - (t) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and
 - (u) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.
- (2) The secretary of the Cabinet for Health and Family Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.
- (3) Members designated in subsection (1)(a) to (r) of this section shall serve during their terms of office.
- (4) Members and alternates designated in subsection (1)(s) to (u) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

➔Section 16. KRS 387.860 is amended to read as follows:

The following definitions apply with respect to KRS 387.855 to 387.910:

- (1) "Special needs person" means a person who, by reason of his or her disability, qualifies as a disabled individual under 42 U.S.C. sec. 1396p and whose disability is the basis for the exemption from Medicaid or Supplemental Security Income (SSI) transfer penalties, or both, either as an individual or as a special needs trust beneficiary under 42 U.S.C. sec. 1396p;
- (2) "Grantor" means an individual who is expressly empowered under 42 U.S.C. sec. 1396p, or this chapter, to establish a special needs trust for a special needs person, and thus qualifies as a grantor. Further, any individual with standing to petition the court under KRS 387.865 may also serve as a grantor of a special needs trust;
- (3) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A) or (C) which may receive assets of a special needs person or another person on behalf of the special needs person;
- (4) "The court," for the purposes of KRS 387.855 to 387.910, means:
 - (a) Where the special needs person has acquired, or will be acquiring, assets which are the subject of any judicial proceedings, the court where such proceedings had been brought, or where such proceedings are pending; and
 - (b) In all other cases, in the District Court in the county where the special needs person resides; and
- (5) "Interested parties," for the purposes of this chapter, means:
 - (a) Any individual who would have standing to petition the court for appointment as a legal guardian or conservator under this chapter;
 - (b) Any fiduciary of the special needs person, including but not limited to his or her legal guardian, conservator, attorney-in-fact, or trustee whether corporate or individual;
 - (c) If the special needs person is a ward of the state, the Protection and Advocacy Division of the Department ~~of~~~~for~~ Public Advocacy; and
 - (d) If there is, or is believed to be, a Medicare or Medicaid lien, or subrogation rights with respect to the special needs person which have not been fully satisfied or discharged at the time the petition is filed, then the appropriate agency or other holder of such rights or claims.

➔Section 17. KRS 422.285 is amended to read as follows:

- (1)
 - (a) Except as provided in paragraph (b) of this subsection, a person who was convicted of a capital offense, a Class A felony, a Class B felony, or any offense designated a violent offense under KRS 439.3401 and who meets the requirements of this section may at any time request the forensic deoxyribonucleic acid (DNA) testing and analysis of any evidence that is in the possession or control of the court or Commonwealth, that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.
 - (b) This subsection shall not apply to offenses under KRS Chapter 218A, unless the offense was accompanied by another offense outside of that chapter for which testing is authorized by paragraph (a) of this subsection.
- (2) Upon receipt of a request under this section accompanied by a supporting affidavit containing sufficient factual averments to support the request from a person who meets the requirements of subsection (5)(f) of this section at the time the request is made for an offense to which the DNA relates, the court shall:
 - (a) If the petitioner is not represented by counsel, appoint the Department ~~of~~~~for~~ Public Advocacy to represent the petitioner for purposes of the request, pursuant to KRS 31.110(2)(c); or
 - (b) If the petitioner is represented by counsel or waives appointment of counsel in writing or if the Department ~~of~~~~for~~ Public Advocacy has previously withdrawn from representation of the petitioner for purposes of the request, require the petitioner to deposit an amount certain with the court sufficient to cover the reasonable costs of the testing being requested.
- (3) Counsel representing the petitioner shall be provided a reasonable opportunity to investigate the petitioner's request and shall be permitted to supplement the request. Pursuant to KRS 31.110(2)(c), the petitioner shall have no further right to counsel provided by the Department ~~of~~~~for~~ Public Advocacy on the matter if counsel

determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense. If the Department ~~offer~~ Public Advocacy moves to withdraw as counsel for petitioner and the court grants the motion, the court shall proceed as directed under subsection (2)(b) of this section.

- (4) Upon receipt of the deposit required under subsection (2)(b) of this section or a motion from counsel provided by the Department ~~offer~~ Public Advocacy to proceed, the court shall provide notice to the prosecutor and an opportunity to respond to the petitioner's request.
- (5) After due consideration of the request and any supplements and responses thereto, the court shall order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and analysis;
 - (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted;
 - (c) The evidence was not previously subjected to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and may resolve an issue not previously resolved by the previous testing and analysis;
 - (d) Except for a petitioner sentenced to death, the petitioner was convicted of the offense after a trial or after entering an Alford plea;
 - (e) Except for a petitioner sentenced to death, the testing is not sought for touch DNA, meaning casual or limited contact DNA; and
 - (f) The petitioner is still incarcerated or on probation, parole, or other form of correctional supervision, monitoring, or registration for the offense to which the DNA relates.
- (6) After due consideration of the request and any supplements and responses thereto, the court may order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that either:
 1. The petitioner's verdict or sentence would have been more favorable if the results of DNA testing and analysis had been available at the trial leading to the judgment of conviction; or
 2. DNA testing and analysis will produce exculpatory evidence;
 - (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted;
 - (c) The evidence was not previously subject to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and that may resolve an issue not previously resolved by the previous testing and analysis;
 - (d) Except for a petitioner sentenced to death, the petitioner was convicted of the offense after a trial or after entering an Alford plea;
 - (e) Except for a petitioner sentenced to death, the testing is not sought for touch DNA, meaning casual or limited contact DNA; and
 - (f) The petitioner is still incarcerated or on probation, parole, or other form of correctional supervision, monitoring, or registration for the offense to which the DNA relates.
- (7) The provisions of KRS 17.176 to the contrary notwithstanding, the petitioner shall pay the costs of all testing and analysis ordered under this section. If the court determines that the petitioner is a needy person using the standards set out in KRS 31.120 and the Department ~~offer~~ Public Advocacy so moves, the court shall treat the costs of testing and analysis as a direct expense of the defense for the purposes of authorizing payment under KRS 31.185.
- (8) If the prosecutor or defense counsel has previously subjected evidence to DNA testing and analysis, the court shall order the prosecutor or defense counsel to provide all the parties and the court with access to the laboratory reports that were prepared in connection with the testing and analysis, including underlying data and laboratory notes. If the court orders DNA testing and analysis pursuant to this section, the court shall order

the production of any laboratory reports that are prepared in connection with the testing and analysis and may order the production of any underlying data and laboratory notes.

- (9) If a petition is filed pursuant to this section, the court shall order the state to preserve during the pendency of the proceeding all evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt.
- (10) The court may make any other orders that the court deems appropriate, including designating any of the following:
 - (a) The preservation of some of the sample for replicating the testing and analysis; and
 - (b) Elimination samples from third parties.
- (11) If the results of the DNA testing and analysis are not favorable to the petitioner, the court shall dismiss the petition. The court may make further orders as it deems appropriate, including any of the following:
 - (a) Notifying the Department of Corrections and the Parole Board;
 - (b) Requesting that the petitioner's sample be added to the Department of Kentucky State Police database; and
 - (c) Providing notification to the victim or family of the victim.
- (12) Notwithstanding any other provision of law that would bar a hearing as untimely, if the results of the DNA testing and analysis are favorable to the petitioner, the court shall order a hearing and make any further orders that are required pursuant to this section or the Kentucky Rules of Criminal Procedure.

➔Section 18. KRS 605.035 is amended to read as follows:

- (1) There is hereby created in each judicial district a family accountability, intervention, and response team that shall develop enhanced case management plans and opportunities for services for children referred to the team. The family accountability, intervention, and response team shall consist of not more than fifteen (15) persons.
- (2) The membership of the team shall include the following representatives as appointed by their agencies or organizations:
 - (a) A court-designated worker in that judicial circuit or district;
 - (b) The members of the regional interagency council specified in KRS 200.509(1)(a) to (d) and (f), or corresponding members of the local interagency council if one exists;
 - (c) A representative from the cabinet knowledgeable about services available through the cabinet and authorized to facilitate access to services;
 - (d) A representative from the office of a county attorney within the judicial district;
 - (e) A representative from the Department ~~of~~for Public Advocacy;
 - (f) A representative from a local public school within the judicial district;
 - (g) A representative of law enforcement; and
 - (h) Other persons interested in juvenile justice issues, as identified by the family accountability, intervention, and response team, who are necessary for a complete representation of resources within each judicial circuit or district.
- (3) A court-designated worker from within the judicial circuit or district shall lead the team and be responsible for convening and staffing the team.
- (4) The team shall adopt a case management approach and process for reviewing:
 - (a) Referrals from the court-designated worker involving cases in which a child has failed to appear for a preliminary intake inquiry, declined to enter into a diversion agreement, or failed to complete the terms of the agreement; and
 - (b) Status offense cases if the court-designated worker, after reviewing the complaint, has determined that no further action is necessary.

- (5) After reviewing the actions taken by the court-designated worker, including referrals made for the child and his or her family, efforts to address barriers to successful completion, and whether other appropriate services are available to address the needs of the child and his or her family, the team may:
- (a) Refer the case back to the court-designated worker to take further action as recommended by the team; or
 - (b) Advise the court-designated worker to refer the case to the county attorney if the team has no further recommendations to offer.

➔Section 19. The General Assembly hereby confirms Executive Order 2016-901, dated December 19, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

➔Section 20. KRS 439.550 is amended to read as follows:

- (1) If any District Court places a person on probation following a conviction of crime, either upon verdict or plea, the court may **request**~~direct~~ that the defendant be under the supervision of the Department of Corrections.
- (2) In counties containing an urban-county form of government, the urban-county council shall provide for supervision of a person placed on probation or work release by the District Court of the county following a conviction of crime, either upon a verdict or plea, under the supervision of an adult misdemeanor probation and work release agency of the urban-county government. The employees of the agency shall be classified civil service employees of a correctional services division created under KRS 67A.028 and shall be subject to the direction of the judges of the District Court in the performance of their duties. There shall be the number of employees of said agency, including clerical personnel, as necessary for the operation of the agency, and they shall receive reasonable salaries to be fixed by the urban-county council which salaries shall be paid out of the urban-county treasury.

➔Section 21. 2017 Regular Session SB 120/EN is amended as follows:

On page 50, lines 14 and 15, delete "*Kentucky State Corrections Commission*" and insert "*Labor Cabinet*" in lieu thereof.

Signed by Governor April 10, 2017.

CHAPTER 168

(HB 333)

AN ACT relating to controlled substances.

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

➔Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "*Carfentanil*" means any substance containing any quantity of *carfentanil*, or any of its salts, isomers, or salts of isomers;
- (5) "Child" means any person under the age of majority as specified in KRS 2.015;

- (6)~~(5)~~ "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (7)~~(6)~~ "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (8)~~(7)~~ (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (9)~~(8)~~ "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (10)~~(9)~~ "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (11)~~(10)~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (12)~~(11)~~ "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (13)~~(12)~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (14)~~(13)~~ "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (15) *"Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;*
- (16) *"Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperidine:*

- (a) **By substitution:**
1. **At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and**
 2. **Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and**
- (b) **Which may be further modified in one (1) or more of the following ways:**
1. **By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;**
 2. **By substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6- positions;**
 3. **By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or**
 4. **By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;**
- (17)~~(14)~~ "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (18)~~(15)~~ "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (19)~~(16)~~ "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (20)~~(17)~~ "Hydrocodone combination product" means a drug with:
- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (21)~~(18)~~ "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (22)~~(19)~~ "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (23)~~(20)~~ "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (24)~~(21)~~ "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (25)~~(22)~~ "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
- (a) Industrial hemp *that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp*~~[as defined in KRS 260.850]~~;
 - (b) *Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials*;
 - (c)~~(b)~~ The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;~~or~~
 - (d)~~(c)~~ For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
 - (e) *A cannabidiol product derived from industrial hemp, as defined in KRS 260.850; or*
 - (f) *A cannabidiol product approved as a prescription medication by the United States Food and Drug Administration*;
- (26)~~(23)~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (27)~~(24)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (28)~~(25)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (29)~~(26)~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (30)~~(27)~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

- (31)~~(28)~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (32)~~(29)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (33)~~(30)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (34)~~(31)~~ "Physical injury" has the same meaning it has in KRS 500.080;
- (35)~~(32)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (36)~~(33)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (37)~~(34)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (38)~~(35)~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (39)~~(36)~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (40)~~(37)~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (41)~~(38)~~ "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (42)~~(39)~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (43)~~(40)~~ "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (44)~~(41)~~ "Salvia" means *Salvia divinorum* or *Salvinorin A* and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (45)~~(42)~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking

offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

- ~~(46)~~~~(43)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- ~~(47)~~~~(44)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;
- ~~(48)~~~~(45)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
 - (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
 - (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
 - (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
 - (e) Naphthylmethylinindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
 - (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
 - (g) Naphthylmethylinindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
 - (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,

cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

- (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or
 - (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- ~~(49)~~~~(46)~~ "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
 - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- ~~(50)~~~~(47)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- ~~(51)~~~~(48)~~ "Telehealth" has the same meaning it has in KRS 311.550;
- ~~(52)~~~~(49)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- ~~(53)~~~~(50)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- ~~(54)~~~~(51)~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- ~~(55)~~~~(52)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 2. KRS 218A.020 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:
 - (a) The actual or relative potential for abuse;

- (b) The scientific evidence of its pharmacological effect, if known;
 - (c) The state of current scientific knowledge regarding the substance;
 - (d) The history and current pattern of abuse;
 - (e) The scope, duration, and significance of abuse;
 - (f) The risk to the public health;
 - (g) The potential of the substance to produce psychic or physiological dependence liability; and
 - (h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
- (2) After considering the factors enumerated in subsection (1) of this section, the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.
 - (3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation.
 - (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).
 - (5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule ***any substance that would meet the criteria to be scheduled pursuant to this chapter*** ~~a substance substantially similar to a synthetic cannabinoid or piperazine or a synthetic cathinone~~. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

➔Section 3. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

- (1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylfentanyl; Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrophan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxadine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine; 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-piperidinylidene]-benzenesulfonamide (W-18); 4-chloro-N-[1-(2-phenylethyl)-2-piperidinylidene]-benzenesulfonamide (W-15); ***or any fentanyl derivative***;
- (2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphanol; Methyl-desorphine; Methyl-dihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine;

Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia;

- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid; and
- (5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);
 - (b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);
 - (c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or
 - (d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

➔Section 4. KRS 218A.1410 is amended to read as follows:

- (1) A person is guilty of importing heroin, *carfentanil, fentanyl, or fentanyl derivatives* when he or she knowingly and unlawfully transports any quantity of heroin, *carfentanil, fentanyl, or fentanyl derivatives* into the Commonwealth by any means with the intent to sell or distribute the heroin, *carfentanil, fentanyl, or fentanyl derivatives*.
- (2) The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.
- (3) Importing heroin, *carfentanil, fentanyl, or fentanyl derivatives* is a Class C felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

➔Section 5. KRS 218A.1412 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
 - (a) Four (4) grams or more of cocaine;
 - (b) Two (2) grams or more of ~~heroin, fentanyl, or~~ methamphetamine;
 - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
 - (d) Any quantity of *heroin, fentanyl, carfentanil, or fentanyl derivatives*; lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or
 - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.
- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.
- (3)
 - (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.
 - (b) Any person who violates the provisions of subsection (1)(e) of this section:
 1. Shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense; and
 2. a. Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the

time of arrest, or weapons, which given the totality of the circumstances indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.

- b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.
- (c) Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin, *fentanyl*, *carfentanil*, or *fentanyl derivatives*.

➔Section 6. KRS 218A.142 is amended to read as follows:

- (1) A person is guilty of aggravated trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
 - (a) One hundred (100) grams or more of heroin;
 - (b) *Twenty-eight (28) grams or more of fentanyl; or*
 - (c) *Ten (10) grams or more of carfentanil or fentanyl derivatives.*
- (2) Aggravated trafficking in a controlled substance in the first degree is a Class B felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

➔Section 7. KRS 218A.205 is amended to read as follows:

- (1) As used in this section:
 - (a) "Reporting agency" includes:
 - 1. The Department of Kentucky State Police;
 - 2. The Office of the Attorney General;
 - 3. The Cabinet for Health and Family Services; and
 - 4. The applicable state licensing board; and
 - (b) "State licensing board" means:
 - 1. The Kentucky Board of Medical Licensure;
 - 2. The Kentucky Board of Nursing;
 - 3. The Kentucky Board of Dentistry;
 - 4. The Kentucky Board of Optometric Examiners;
 - 5. The State Board of Podiatry; and
 - 6. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans.
- (2)
 - (a) When a reporting agency or a law enforcement agency receives a report of improper, inappropriate, or illegal prescribing or dispensing of a controlled substance it may, to the extent otherwise allowed by law, send a copy of the report within three (3) business days to every other reporting agency.
 - (b) A county attorney or Commonwealth's attorney shall notify the Office of the Attorney General and the appropriate state licensing board within three (3) business days of an indictment or a waiver of indictment becoming public in his or her jurisdiction charging a licensed person with a felony offense relating to the manufacture of, trafficking in, prescribing, dispensing, or possession of a controlled substance.

(3) Each state licensing board shall, *in consultation with the Kentucky Office of Drug Control Policy*, establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:

- (a) Mandatory prescribing and dispensing standards related to controlled substances, the requirements of which shall include the diagnostic, treatment, review, and other protocols and standards established for Schedule II controlled substances and Schedule III controlled substances containing hydrocodone under KRS 218A.172 and which may include the exemptions authorized by KRS 218A.172(4);
- (b) *In accord with the CDC Guideline for Prescribing Opioids for Chronic Pain published in 2016, a prohibition on a practitioner issuing a prescription for a Schedule II controlled substance for more than a three (3) day supply of a Schedule II controlled substance if the prescription is intended to treat pain as an acute medical condition, with the following exceptions:*
 - 1. *The practitioner, in his or her professional judgment believes that more than a three (3) day supply of a Schedule II controlled substance is medically necessary to treat the patient's pain as an acute medical condition and the practitioner adequately documents the acute medical condition and lack of alternative treatment options which justifies deviation from the three (3) day supply limit established in this subsection in the patient's medical records;*
 - 2. *The prescription for a Schedule II controlled substance is prescribed to treat chronic pain;*
 - 3. *The prescription for a Schedule II controlled substance is prescribed to treat pain associated with a valid cancer diagnosis;*
 - 4. *The prescription for a Schedule II controlled substance is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment;*
 - 5. *The prescription for a Schedule II controlled substance is prescribed as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;*
 - 6. *The prescription for a Schedule II controlled substance is prescribed to treat pain following a major surgery or the treatment of significant trauma, as defined by the state licensing board in consultation with the Kentucky Office of Drug Control Policy;*
 - 7. *The Schedule II controlled substance is dispensed or administered directly to an ultimate user in an inpatient setting; or*
 - 8. *Any additional treatment scenario deemed medically necessary by the state licensing board in consultation with the Kentucky Office of Drug Control Policy.*

Nothing in this paragraph shall authorize a state licensing board to promulgate regulations which expand any practitioner's prescriptive authority beyond that which existed prior to the effective date of this Act;

- (c) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;
- ~~(d)(e)~~ A procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public;
- ~~(e)(d)~~ A procedure for the expedited review of complaints filed against their licensees pertaining to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances that is designed to commence an investigation within seven (7) days of a complaint being filed and produce a charging decision by the board on the complaint within one hundred twenty (120) days of the receipt of the complaint, unless an extension for a definite period of time is requested by a law enforcement agency due to an ongoing criminal investigation;
- ~~(f)(e)~~ The establishment and enforcement of licensure standards that conform to the following:
 - 1. A permanent ban on licensees and applicants convicted after July 20, 2012, in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;

2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;
 3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing of controlled substances; and
 4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;
- (g)~~(f)~~ A procedure for the continuous submission of all disciplinary and other reportable information to the National Practitioner Data Bank of the United States Department of Health and Human Services;
- (h)~~(g)~~ If not otherwise required by other law, a process for submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and
- (i)~~(h)~~ Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.
- (4) ***For the purposes of pharmacy dispensing, the medical necessity for a Schedule II controlled substance as documented by the practitioner in the patient's medical record and the prescription for more than a three (3) day supply of that controlled substance are presumed to be valid.***
- (5) A state licensing board shall employ or obtain the services of a specialist in the treatment of pain and a specialist in drug addiction to evaluate information received regarding a licensee's prescribing or dispensing practices related to controlled substances if the board or its staff does not possess such expertise, to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.
- (6)~~(5)~~ Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.
- (7)~~(6)~~ Every state licensing board shall cooperate to the maximum extent permitted by law with all state, local, and federal law enforcement agencies, and all professional licensing boards and agencies, state and federal, in the United States or its territories in the coordination of actions to deter the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.
- (8)~~(7)~~ Each state licensing board shall require a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation of any applicant for initial licensure to practice any profession authorized to prescribe or dispense controlled substances.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) ***A person is guilty of trafficking in a misrepresented controlled substance when he or she knowingly and unlawfully sells or distributes any Schedule I controlled substance, carfentanil, or fentanyl while misrepresenting the identity of the Schedule I controlled substance, carfentanil, or fentanyl being sold or distributed as a legitimate pharmaceutical product.***
- (2) ***The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.***
- (3) ***Trafficking in a misrepresented controlled substance is a Class D felony.***

➔Section 9. KRS 218A.180 is amended to read as follows:

- (1) Except when dispensed directly by a practitioner to an ultimate user, no ~~[methamphetamine or]~~ controlled substance ***listed*** in Schedule II may be dispensed without the written, facsimile, ~~for~~ electronic, ***or oral*** prescription of a practitioner. A prescription for a controlled substance ***listed*** in Schedule II may be dispensed

by a facsimile prescription only as specified in administrative regulations promulgated by the cabinet. ***A prescription for a controlled substance listed in Schedule II may be dispensed by oral prescription only for immediate administration to a patient enrolled in a hospice program or a resident in a long-term care facility, as defined in KRS 216.535, excluding a family care home or personal care home, and the practitioner determines that immediate administration is necessary, no appropriate alternative treatment is available, and it is not reasonably possible for the prescriber to provide a written prescription.*** No prescription for a controlled substance in Schedule II shall be valid after sixty (60) days from the date issued. No prescription for a controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

- (2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written, facsimile, electronic, or oral prescription by a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date issued or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written, electronic, or oral shall be required.
- (3) (a) To be valid, a prescription for a controlled substance shall be issued only for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice. Responsibility for the proper dispensing of a controlled substance pursuant to a prescription for a legitimate medical purpose is upon the pharmacist who fills the prescription.
- (b) A prescription shall not be issued for a practitioner to obtain a controlled substance for the purpose of general dispensing or administering to patients.
- (4) All written, ~~and~~ facsimile, ***and electronic*** prescriptions for controlled substances shall be dated and signed by the practitioner on the date issued. ***A computer-generated prescription that is printed out or faxed by the practitioner shall be manually signed. A prescription may be transmitted by facsimile only as specified in administrative regulations promulgated by the cabinet. Electronic prescriptions shall be created, signed, and transmitted in accordance with the requirements of 21 C.F.R. Part 1311***~~and shall bear the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner~~.
- (5) All ~~oral, facsimile, or electronic~~ prescriptions ***for controlled substances*** shall include the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.
- (6) All oral prescriptions ***for controlled substances*** shall be immediately reduced to writing, dated, and signed by the pharmacist.
- (7) A pharmacist refilling any prescription shall record on the prescription or other equivalent record the date, the quantity, and the pharmacist's initials. The maintenance of prescription records under the federal controlled substances laws and regulations containing substantially the same information as specified in this subsection shall constitute compliance with this subsection.
- (8) The pharmacist filling a written, facsimile, electronic, or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.
- (9) Any person who violates any provision of this section shall:
 - (a) For the first offense, be guilty of a Class A misdemeanor.
 - (b) For a second or subsequent offense, be guilty of a Class D felony.

➔Section 10. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.

- (2) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth who is licensed, permitted, or otherwise authorized to prescribe or dispense a controlled substance to a person in Kentucky shall report to the Cabinet for Health and Family Services the data required by this section, except that reporting shall not be required for:
 - (a) A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;
 - (b) A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, dispensed by a practitioner at a facility licensed by the cabinet, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours; or
 - (c) A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections, where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) National drug code of the drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program in conformity with subsection (7) of this section;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

- (e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who requests information and certifies that the requested information is for the purpose of:
 - 1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; or
 - 2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
 - (f) The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
 - (h) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
 - 2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
 - 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - 4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
 - (i) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or
 - (j) A medical examiner engaged in a death investigation pursuant to KRS 72.026.
- (7) The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:
- (a) Appropriately managed by a single outpatient pharmacy or primary care physician; or
 - (b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

- (a) A person specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection (6)(b) of this section authorized to receive data or a report if the persons specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;
 - (d) If a state licensing board as defined in KRS 218A.205 initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and
 - (e) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
 - (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
 - (11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
 - (12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
 - (13)
 - (a) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.
 - (b) The pilot project shall:
 - 1. Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - 2. Study the use of an interactive system that includes a relational data base with query capability.
 - (c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.
 - (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

- (15) The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.
- (17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.
- (18) *The Cabinet for Health and Family Services, Office of Inspector General, shall conduct quarterly reviews to identify patterns of potential improper, inappropriate, or illegal prescribing or dispensing of a controlled substance. The Office of Inspector General may independently investigate and submit findings and recommendations to the appropriate boards of licensure or other reporting agencies.*
- (19) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:
 - (a) An error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient; and
 - (b) Beginning July 1, 2013, a requirement that data be reported to the system under subsection (3) of this section within one (1) day of dispensing.

Signed by Governor April 10, 2017.

CHAPTER 169

(HB 394)

AN ACT relating to reorganization of the building trades.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *The Housing, Buildings and Construction Advisory Committee is established within the department and shall be composed of the following seventeen (17) voting members:*
 - (a) *The commissioner of the department or the commissioner's designee;*
 - (b) *The state fire marshal or a representative of the state fire marshal's office;*
 - (c) *The director of the Building Code Enforcement Division within the department; and*
 - (d) *Fourteen (14) members appointed by the Governor:*
 - 1. *At least one (1) of whom shall be a licensed heating, ventilation, and air conditioning contractor;*
 - 2. *At least one (1) of whom shall be a licensed plumber;*

3. *At least one (1) of whom shall be a licensed elevator mechanic or elevator contractor;*
 4. *At least one (1) of whom shall be a licensed electrician;*
 5. *At least one (1) of whom shall be a licensed engineer;*
 6. *At least one (1) of whom shall be a licensed architect;*
 7. *At least one (1) of whom shall be a manufactured or mobile home retailer or certified installer; and*
 8. *The remaining seven (7) of whom shall have experience in the housing, building, or construction industries.*
- (2) *Each committee member appointed under subsection (1)(d) of this section shall serve a term of three (3) years, except that initial appointments shall be staggered by the Governor. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.*
 - (3) *The commissioner or the commissioner's designee shall serve as chair of the committee. The committee shall annually elect a member to serve as vice chair.*
 - (4) *The committee shall meet at least quarterly, and a majority of the members of the committee shall constitute a quorum for the transaction of business. If a vote on a matter before the committee results in a tie, the commissioner or the commissioner's designee shall cast an additional deciding vote.*
 - (5) *Committee members who are not full-time state government employees shall be compensated for their time when attending committee meetings or performing official duties as directed by the committee at the rate of fifty dollars (\$50) per day. Members of the committee shall be reimbursed for all expenses paid or incurred in the discharge of official business consistent with the reimbursement policy for state employees.*
 - (6) *The committee shall provide ongoing advice and input to the department, but shall not become directly involved in the licensing or regulation of housing, buildings, and construction matters by the department.*
 - (7) *The department shall give the committee thirty (30) days to review and comment on a proposed administrative regulation before the regulation is promulgated, amended, or repealed, except in the case of an emergency administrative regulation.*

➔Section 2. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

- (1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:
 - (a) Armories;
 - (b) Assembly halls;
 - (c) Auditoriums;
 - (d) Bowling alleys;
 - (e) Broadcasting studios;
 - (f) Chapels;
 - (g) Churches;
 - (h) Clubrooms;
 - (i) Community buildings;
 - (j) Courthouses;
 - (k) Dance halls;
 - (l) Exhibition rooms;
 - (m) Gymnasiums;
 - (n) Hotels;

- (o) Lecture rooms;
 - (p) Lodge rooms;
 - (q) Motels;
 - (r) Motion picture theaters;
 - (s) Museums;
 - (t) Night clubs;
 - (u) Opera houses;
 - (v) Passenger stations;
 - (w) Pool rooms;
 - (x) Recreation areas;
 - (y) Restaurants;
 - (z) Skating rinks;
 - (aa) Television studios;
 - (bb) Theaters.
- (2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.
- (3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.
- (4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular, and also means single-family dwellings, including those sold or constructed under a trade or brand name. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a manufactured home governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if the farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.
- (5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling, or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:
- (a) Banks;
 - (b) Barber shops;
 - (c) Beauty parlors;
 - (d) Department stores;
 - (e) Garages;
 - (f) Markets;
 - (g) Service stations;
 - (h) Offices;
 - (i) Stores;
 - (j) Radio stations;

- (k) Telephone exchanges; and
 - (l) Television stations.
- (6) "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.
- (7) "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.
- (8) "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.
- (9) "Commissioner" means the commissioner of *the department* ~~[housing, buildings and construction]~~.
- (10) ***"Committee" means the Housing, Buildings and Construction Advisory Committee established by Section 1 of this Act.***
- ~~(11)~~~~(10)~~ "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.
- ~~(12)~~~~(11)~~ "Department" means the Department of Housing, Buildings and Construction.
- ~~(13)~~~~(12)~~ "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction. "Educational occupancy" shall not include a building for occupancy or use by thirty-five (35) persons or less assembled to receive religious and educational instruction. "Educational occupancy" includes but is not limited to:
- (a) Academies;
 - (b) Care centers;
 - (c) Colleges;
 - (d) Kindergartens;
 - (e) Libraries;
 - (f) Preschools;
 - (g) Relocatable classroom units;
 - (h) Schools;
 - (i) Seminaries; and
 - (j) Universities.
- ~~(14)~~~~(13)~~ "Equipment" means facilities or installations, including but not limited to heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.
- ~~(15)~~~~(14)~~ "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:
- (a) Aluminum powder factories;
 - (b) Charging or filling stations;
 - (c) Distilleries;
 - (d) Dry cleaning plants;
 - (e) Dry dyeing plants;
 - (f) Explosive-manufacture, sale or storage;
 - (g) Flour and feed mills;

- (h) Gasoline bulk plants;
- (i) Grain elevators;
- (j) Lacquer factories;
- (k) Liquefied petroleum gas;
- (l) Mattress factories;
- (m) Paint factories;
- (n) Pyroxylin-factories, or warehouses; and
- (o) Rubber factories.

~~(16)~~~~(15)~~ "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:

- (a) Assembly plants;
- (b) Creameries;
- (c) Electrical substations;
- (d) Factories;
- (e) Ice plants;
- (f) Laboratories;
- (g) Laundries;
- (h) Manufacturing plants;
- (i) Mills;
- (j) Power plants;
- (k) Processing plants;
- (l) Pumping stations;
- (m) Repair garages;
- (n) Smokehouses; and
- (o) Workshops.

~~(17)~~~~(16)~~ "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

~~(18)~~~~(17)~~ "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:

- (a) Asylums;
- (b) Homes for the aged;
- (c) Hospitals;
- (d) Houses of correction;
- (e) Infirmarys;
- (f) Jails;
- (g) Nursing homes;
- (h) Orphanages;
- (i) Penal institutions;

- (j) Reformatories;
- (k) Sanitariums; and
- (l) Nurseries.

~~(19)(18)~~ "Mobile home" means mobile home as defined in KRS 227.550.

~~(20)(19)~~ "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include but not be limited to the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring, or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

~~(21)(20)~~ "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

~~(22)(21)~~ "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he or she is insecure or exposed to danger; a person whose hearing is so impaired that he or she is unable to hear warning signals; and a person whose mobility, flexibility, coordination, and perceptiveness are significantly reduced by aging.

~~(23)(22)~~ "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety, or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.

~~(24)(23)~~ "Manufactured home" is defined as in KRS 227.550.

➔Section 3. KRS 198B.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Department of Housing, Buildings and Construction within the Public Protection Cabinet. The Governor shall appoint a commissioner to head the department. The commissioner shall receive for his or her services such compensation as the Governor shall determine.
- (2) The commissioner may employ sufficient staff to carry out the functions of the commissioner's office. Neither the commissioner nor any member of his or her staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this chapter while employed by the Department of Housing, Buildings and Construction.
- (3) The department shall ~~serve as staff for the board of housing, buildings and construction as established by this chapter, and shall~~ perform all budgeting, procurement, and other administrative activities necessary *for the statewide regulation and enforcement of building, construction, and inspection standards and codes* ~~to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him or her by the Governor or secretary, or prescribed for the commissioner by law~~. The department or commissioner shall submit any proposed administrative regulation to the *committee* ~~board~~ and shall not promulgate the administrative regulation without giving the *committee* ~~board~~ the opportunity to produce written comments, as required by subsection (8) of this section. If the *committee* ~~board~~ chooses to produce written comments, *the* ~~these~~ comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
- (4) The department may enter into contracts or agreements with the federal government, its subdivisions and instrumentalities, other agencies of state government or with its subdivisions and instrumentalities, or with private profit or nonprofit organizations in order to effect the purposes of this chapter.
- (5) ~~[Subject to the direction of the board of housing, buildings and construction,]~~ The commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from *these* ~~such~~ agencies. ~~[To these ends and subject to the direction of the board,]~~ The commissioner shall have the power to comply with each condition and execute *any agreement that* ~~such agreements as~~ may be necessary, convenient, or desirable.

- (6) Nothing in this chapter shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.
- (7) The commissioner is authorized to receive, for and on behalf of the state ~~and~~ the department, ~~and the board of housing, buildings and construction,~~ from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this chapter, including expenses of administration. All ~~such~~ funds **received under this subsection** shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.
- (8) (a) If the department has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of ~~the~~ ~~any board or advisory~~ committee ~~that is created by statute and is controlled, superseded, administratively attached, or affiliated with the department,~~ the department shall not promulgate the proposed administrative regulation without first receiving comments from the ~~affected board or advisory~~ committee, subject to the restrictions of paragraph (b) of this subsection.
- (b) 1. ~~If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (a) of this subsection, the department shall distribute the proposed administrative regulation to the board or advisory committee.~~
2. The ~~affected board or advisory~~ committee shall be granted a maximum of **thirty (30)** ~~sixty (60)~~ days to submit its comments on the proposed regulatory change. **This subparagraph does not apply to an** ~~If the~~ administrative regulation **that** is a new emergency **administrative** regulation, ~~the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.~~
- 2~~3~~. The time limits in this paragraph shall begin from the day the department submits the regulatory change and sets a date for a proposed hearing for the comments of the ~~affected board or advisory~~ committee. If the ~~board or advisory~~ committee is already scheduled to meet at a time that will give it an adequate opportunity to review the **administrative** regulation and respond, the hearing may be held at that meeting.
- 3~~4~~. If ~~the~~ ~~a board or advisory~~ committee is not scheduled to meet or meets only at the call of the department, the department shall arrange for the ~~board or advisory~~ committee to meet at a time that will allow the ~~board or advisory~~ committee an adequate opportunity to review and comment on the regulation within the time limit. If the ~~affected board or advisory~~ committee fails to comment within the time limit, the department may proceed with the administrative changes at its discretion.
- (c) To the extent that any other statute relating to the department's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.
- (d) **The department may issue advisory opinions and declaratory rulings related to KRS Chapters 198B, 227, 227A, 236, and 318 and the administrative regulations promulgated under those chapters** ~~If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.~~
- ~~(e) The rights and privileges enumerated in this subsection that apply to boards and advisory committees shall also be granted to the Kentucky Board of Housing, Buildings and Construction.~~
- ~~(9) Any power or limitation relating to administrative regulations promulgated by the department that are subject to subsection (8) of this section shall also apply to administrative regulations promulgated by the commissioner of the department.~~

➔ Section 4. KRS 198B.040 is amended to read as follows:

The **department** ~~Kentucky Board of Housing, Buildings and Construction~~ shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;

- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability, and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state, and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
 - (a) Devising and implementing procedures, in conjunction with the Department for Local Government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this housing, and housing constructed and demolished each year;
 - (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
 - (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;
 - (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
 - (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
 - (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing; and
 - (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
- (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
- (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in ~~those~~^{such} plants. **Any administrative regulation promulgated under this subsection shall**; ~~provided, however, that any such regulations must~~ require that applications for permits to build public water purification plants ~~will~~ be submitted by the department to the Energy and Environment Cabinet for that cabinet's comments. Any **submitted administrative**^{such} regulations shall require the Energy and Environment Cabinet's comments to be completed and **returned**~~submitted~~ to the department within sixty (60) days;
- (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants. **Any administrative regulation promulgated under this subsection shall**; ~~provided, however, that any such regulations must~~ require that applications for permits to build public sewage treatment plants ~~will~~ be submitted by the department to the Energy and Environment Cabinet for that cabinet's comments. Any **submitted administrative**^{such} regulations shall require the Energy and Environment Cabinet's comments to be completed and **returned**~~submitted~~ to the department within sixty (60) days; and
- (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures.;
- (11) ~~(a) As used in this subsection, "main board" means the Kentucky Board of Housing, Buildings and Construction.~~
 - ~~(b) If the main board has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with~~

~~the main board, the main board shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (c) of this subsection.~~

- ~~(c) 1. If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (b) of this subsection, the main board shall distribute the proposed administrative regulation to the board or advisory committee.~~
- ~~2. The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.~~
- ~~3. The time limits in this paragraph shall begin from the day the main board submits the regulatory change and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.~~
- ~~4. If a board or advisory committee is not scheduled to meet or meets only at the call of the main board, the main board shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the main board may proceed with the administrative changes at its discretion.~~
- ~~(d) To the extent that any other statute relating to the main board's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.~~
- ~~(e) If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.~~
- ~~(12) Any power or limitation relating to administrative regulations promulgated by the Kentucky Board of Housing, Buildings and Construction that are subject to subsection (11) of this section shall also apply to the department and commissioner as described in KRS 198B.030(8) and (9).]~~

➔Section 5. KRS 198B.050 is amended to read as follows:

- (1) ~~[Within one (1) year from its initial meeting, after adequate notice in accordance with KRS Chapter 13A,]~~The ~~department~~~~[board]~~ shall adopt and promulgate a mandatory Uniform State Building Code *that establishes*~~[which shall establish]~~ standards for the construction of all buildings, as defined in KRS 198B.010, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the Uniform State Building Code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.
- (2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky State Plumbing Code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.
- (3) This code shall be designed after and may be selected from the models offered by such model code agencies as the *International Code Council, Inc., the National Fire Protection Association*~~[Building Officials and Code Administrators, International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress]~~; and other nationally recognized organizations which may include governmental agencies. The code shall:
 - (a) Provide uniform standards and requirements for construction and construction materials;
 - (b) To the extent practicable, set forth standards, specifications, and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies; *and*
 - (c) Protect the public health, safety, and welfare within the state.
- (4) ~~The~~~~[Adoption of a]~~ code shall include provisions for the continuing review *and possible adoption* off~~[, and the board shall adopt when deemed justified to fulfill the purposes of this chapter,]~~ new materials, technologies,

and techniques in the building industry *when deemed justified by the department to fulfill the purposes of this chapter*. The ~~department~~~~board~~ may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the ~~department~~~~board~~ and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

- (5) The ~~department~~~~board~~ shall *promulgate administrative*~~issue~~ regulations, after notice in accordance with KRS Chapter 13A, which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to *the department*~~said board~~ by this chapter.
- (6) The ~~department~~~~board~~ shall monitor the effectiveness of agencies designated by local governments to enforce the provisions of the Uniform State Building Code.
- (7) If the ~~department~~~~board~~ determines that an agency is not enforcing the provisions of the Uniform State Building Code, it shall ~~direct the department to~~ determine where deficiencies exist. The department shall require the local government to correct the deficiencies within sixty (60) days and report to the department its method of correcting the deficiencies.
- (8) If the local government fails to correct the deficiencies, the department *may*~~shall recommend to the board that the department be permitted to~~ preempt the local program as provided for in KRS 198B.060(4).
- (9) The ~~department~~~~board~~ shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the Uniform State Building Code for all interested parties.

➔Section 6. KRS 198B.060 is amended to read as follows:

- (1) Each local government shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, except that permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences.
- (2)
 - (a) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional, or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010.
 - (b) Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to ~~the provisions of~~ this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his or her use in maintaining an accurate housing inventory for Kentucky.
- (3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the ~~department~~~~board~~.
- (4)
 - (a) With the exception of single-family dwellings, the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to ~~the provisions of~~ this chapter and the Uniform State Building Code.
 - (b) If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, ~~he or she may recommend to the board that~~ the department *may* preempt that portion of a local program, except that the ~~department~~~~commissioner~~ shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings. The commissioner shall explain his or her reasons for preemption in writing and provide a copy to the ~~board and the~~ local jurisdiction.

- (c) The local jurisdiction may appeal the ~~recommended~~ preemption directly to the **commissioner**~~board~~, and the **department**~~board~~ shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the **commissioner**~~department~~ shall take place until ~~a~~*the* final decision ***has been issued in an appeal under this subsection***~~of the board~~.
 - (d) If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.
- (5) (a) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions.
- (b) The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he or she shall explain his or her reasons for denial in writing, and provide a copy to the ~~board and the~~ local government.
- (c) A local government may appeal the denial directly to the **commissioner**~~board~~, and the **department**~~board~~ shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070.
- (d) If the local government is granted additional responsibility by the commissioner~~or the board~~, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.
- (6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with~~the provisions of~~ KRS 198B.050 to 198B.090.
- (7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional divisions so as to prevent unnecessary duplication in the review of plans and specifications.
- (8) No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.
- (9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.
- (10) (a) No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.
- (b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars (\$4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.
- (c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.

- (11) A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government having responsibility over buildings ~~described as set out~~ in this section as part of its building inspection program. After a certified electrical inspector has been provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building, or any building which has been moved, until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to department approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.
- (12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the ~~department~~ **Board of Housing, Buildings and Construction**, shall not be performed in order to conduct the tests or inspections.
- (13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. Nothing in this subsection shall be construed to require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.
- (14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.
- (15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:
- (a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;
 - (b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;
 - (c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;
 - (d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and
 - (e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.
- (16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.
- (17) *If the inspector fails to comply within sixty (60) days of a written notification from the department that specifies the required corrections,* ~~after written notification from the department to the inspector of any corrections required, the inspector fails to comply within sixty (60) days,~~ the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the ~~department~~ **board**, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (18) Each local government and the department may establish a schedule of fees for the functions performed under ~~the provisions of~~ this chapter. The fees shall be designed to fully cover, **but shall not exceed**, the cost of the service performed ~~but shall not exceed the cost of the service performed~~. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out ~~the provisions of~~ this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

➔Section 7. KRS 198B.070 is amended to read as follows:

- (1) The mayor or county judge/executive of a local government which is enforcing the Uniform State Building Code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of five (5) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official. At least three (3) members of the appeals board ~~shall must~~ not be employed by the local government hearing the appeal.
- (2) Local governments ~~that which~~ are enforcing the Uniform State Building Code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering ~~these such~~ cooperative agreements. ~~A No~~ local building official or employee of a local inspection department ~~shall not may~~ sit on a local appeals board if the board is hearing an appeal to a decision rendered by his or her department. ~~A No~~ member of a local appeals board shall **not** hear an appeal in a case in which he or she has a private interest.
- (3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.
- (4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the ~~department Board of Housing, Buildings and Construction~~. Appeals to the ~~department Board of Housing, Buildings and Construction~~ shall include citation of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.
- (5) The ~~department Board of Housing, Buildings and Construction~~ shall serve to hear appeals from the decisions of local appeals boards, when these boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the ~~department board~~ hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.
- (6) The ~~department board~~ shall hear appeals directly from a party aggrieved by the decision of an agent of the department. These appeals shall include citations of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.
- (7) Appeals to the ~~department Board of Housing, Buildings and Construction~~ shall be addressed to the commissioner, who shall immediately notify the ~~department board~~ when an appeal is received. The commissioner or a designated employee of his or her department shall then investigate the evidence pertaining to the appeal and, based upon the results of the investigation, make recommendations to the ~~department board~~ on the disposition of the case in question. No employee of the department shall investigate or make recommendations on an appeal to his or her own decision, but shall defer in such cases to employees who were not party to the decision which led to the appeal. In conducting an investigation, the commissioner or his or her designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any informal or fact-finding hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete his or her investigations ~~and forward a written report to the board~~ within thirty (30) days after receiving an appeal.
- (8) If the matter is not settled by agreement of the parties through the procedure established in subsection (7) of this section, the ~~commissioner board~~ shall schedule an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (9) The ~~commissioner board~~ may appoint five (5) or more **members of the department** ~~of its members, excluding the chairman of the board,~~ to conduct the hearing, and those ~~so~~ appointed shall act in all matters concerning the appeal for the entire ~~department board~~.
- (10) The ~~department board~~ may uphold, amend, or reverse the decision of a local appeals board, a local building official, or an agent of the department by final order. **An appeal of the department's** ~~and appeal from the~~

~~board's~~ final order shall be to the Circuit Court within whose jurisdiction the property in question is located in accordance with KRS Chapter 13B.

➔Section 8. KRS 198B.080 is amended to read as follows:

- (1) Any interested party may suggest amendments to the Uniform State Building Code to the department~~[of Housing, Buildings and Construction]~~. The department shall transmit all suggested amendments to the *committee and receive comments from the committee*~~[board with recommendations]~~ on the advisability of the suggested amendments.
- (2) The *department*~~[board]~~ may amend the Uniform State Building Code at any time, but only after notice in accordance with KRS Chapter 13A. *Adopted*~~[Such]~~ amendments shall be effective statewide.
- (3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the Uniform State Building Code as specified in KRS 198B.050(3).

➔Section 9. KRS 198B.090 is amended to read as follows:

- (1) ~~[On or before July 1, 1983,]~~ The department shall create and administer a certification program with sufficient testing procedures to certify the following professional classifications:
 - (a) Building inspector;
 - (b) Plans and specifications inspector; and
 - (c) Plumbing inspector.
- (2) The testing procedures shall be sufficient to reflect the ability of the person applying for certification to inspect in accordance with those local, state, and federal building codes, fire codes, plumbing codes, or health and safety codes, that are applicable to the inspection duties for which he or she requests certification.
- (3) The department shall conduct or sponsor preentry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.
- (4) ~~[On or before July 1, 1983,]~~ The department shall create and administer an educational program designed to prepare building officials, code enforcement officers, and other persons interested in obtaining from the department a certification as a building inspector, plans and specifications inspector, or plumbing inspector. The program shall be~~[so]~~ designed *to ensure*~~[as to insure]~~ uniform statewide enforcement of the applicable state building and plumbing codes. Training material coverage shall be adequate to prepare the participants with a working knowledge of construction design, specification terms, and the state building codes applicable to the particular field in which the applicant requests certification.
- (5) Plumbing inspectors who are in compliance with KRS 318.090 as state inspectors and KRS 318.140 as city-county inspectors, shall be considered in *compliance*~~[accordance]~~ with subsections (1)(c) and (2) of this section and shall not be required to be retested by the department prior to consideration for certification as a plumbing inspector. The department shall review the plumbing inspector's qualifications and credentials for compliance with KRS 318.090 or 318.140 prior to issuing a certification to the inspector's certificate applicant.
- (6) Attendance at the training sessions shall not be mandatory prior to testing for certification if the applicant's previous education or experience qualifies the applicant to obtain a passing score on the required certification test.
- (7) Training sessions shall be held as frequently as is felt necessary by the commissioner to adequately provide for local and state building inspection needs.
- (8) The department's plans and specifications review staff and the field inspection staff shall attend the training and become certified in accordance with~~[the provisions of]~~ this section.
- (9) All building inspectors, plans and specification inspectors, and plumbing inspectors shall be certified or enrolled and actively pursuing department certification~~[by October 1, 1983, or]~~ within ninety (90) days after employment as an inspector~~[, whichever comes later]~~.
- (10) The *department*~~[board]~~ shall establish a schedule of fees to cover the cost of the education, testing, and certification programs to be paid by the applicants for certification. The fees shall not exceed the actual cost of the services performed by the department to administer the programs listed in this section.

- (11) The department may reimburse building officials, code enforcement officers, and other employees of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

➔Section 10. KRS 198B.095 is amended to read as follows:

- (1) The ~~department~~~~[Board of Housing, Buildings and Construction]~~ may establish a building inspectors training program through the promulgation of administrative regulations in accordance with~~[the provisions of]~~ KRS Chapter 13A. The program shall provide training to encourage local governments to establish and improve building code enforcement programs and to encourage all building inspectors to upgrade their skills.
- (2) If the ~~department~~~~[board]~~ chooses to establish the program authorized in subsection (1) of this section, there shall be created in the department~~[of Housing, Buildings and Construction, under the Board of Housing, Buildings and Construction,]~~ a trust and agency fund to be known as the "Building Inspectors' Financial Incentive Training Program fund".
- (3) If the ~~department~~~~[board]~~ establishes the Building Inspectors' Financial Incentive Training Program fund:
 - (a) The fund shall be funded annually with a maximum of one hundred twenty-five thousand dollars (\$125,000) at a rate of one-half cent (\$.005) per calculated square foot from the department's plan review fees collected;
 - (b) Any funds annually resulting from plan review fees in excess of one hundred twenty-five thousand dollars (\$125,000) shall be used solely for the operating costs of the department's building inspection program;
 - (c) Moneys deposited annually into the Building Inspectors' Financial Incentive Training Program fund shall be available for use by the ~~department~~~~[board]~~ to support the training program established pursuant to subsection (1) of this section; and
 - (d) No moneys shall be deposited into the Building Inspectors' Financial Incentive Training Program fund causing the balance to exceed one hundred twenty-five thousand dollars (\$125,000).
- (4) **Notwithstanding KRS 45.229**, any unused fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.~~[, and] Moneys in the fund shall be available only for the purposes specified in subsection (1) of this section. [The established fund shall not be subject to the provisions of KRS 45.229.]~~
- (5) Any interest earnings of the trust fund shall become part of the fund and shall not lapse.

➔Section 11. KRS 198B.100 is amended to read as follows:

Unless explicitly stated, exemption of manufactured or mobile homes from the provisions of this chapter **shall not**~~is not intended to~~ exempt them from provisions of existing law regulating them for the purposes of health, safety, and welfare.

➔Section 12. KRS 198B.120 is amended to read as follows:

The department or any local government agency enforcing the Uniform State Building Code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of ~~the~~~~[said]~~ code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of ~~the~~~~[said]~~ code, the reconstruction, alteration, repair or conversion does not conform to the requirements of this chapter or the Uniform State Building Code.

➔Section 13. KRS 198B.250 is amended to read as follows:

- (1) There is hereby created an Architectural Barriers Advisory Committee which shall be attached to the department~~[of Housing, Buildings and Construction]~~ for administrative purposes. The~~[committee]~~ members shall be appointed by the Governor to serve a term of two (2) years and shall be constituted as follows: three (3) persons having a physical disability, one (1) citizen at large, and the public advocate or his designee.
- (2) The **Architectural Barriers Advisory** Committee shall meet at least quarterly or upon request of the ~~department~~~~[board]~~ for the purposes of considering matters relating to accessibility and safety in facilities for persons with physical disabilities, **and**~~[The committee]~~ shall make recommendations to and otherwise advise the department~~[and the board]~~ on these matters.

- (3) ~~[The Committee]~~Members *of the Architectural Barriers Advisory Committee shall not receive*~~[will receive no]~~ compensation for their services, but *shall*~~[will]~~ be reimbursed for~~[their]~~ necessary travel expenses.

➔Section 14. KRS 198B.260 is amended to read as follows:

- (1) The ~~*department*~~~~[Board of Housing, Buildings and Construction]~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, applicable to all new and altered buildings which shall establish requirements for making all buildings accessible to and usable by persons with a disability. *These*~~[Such]~~ regulations shall require, as a minimum, that all buildings, with the exception of one (1) and two (2) family dwellings, multifamily projects consisting of twenty-four (24) living units or less, church buildings, and historical structures whose historic significance would be threatened or destroyed, be accessible to persons with a disability. If multifamily projects are not exempt *under this subsection*~~[hereunder]~~, only one (1) out of every twenty-five (25) units *shall*~~[must]~~ be accessible to persons with a disability. The administrative regulations shall be incorporated into the Kentucky Building Code.
- (2) The administrative regulations promulgated by the ~~*department*~~~~[board]~~ shall be consistent with the Federal 1991 Americans with Disabilities Act and the American Disabilities Act Guidelines.
- (3) No building permit or other official authorization for construction of any building shall be valid unless the plans and specifications are in compliance with the accessibility requirements~~[as]~~ stated in the Kentucky Building Code.

➔Section 15. KRS 198B.300 is amended to read as follows:

As used in KRS 198B.310 to 198B.330:

- (1) "Safety glazing material" means any glazing material, such as tempered glass, laminated glass, wire glass, or rigid plastic *that*~~[-, which]~~
- (a) Meets the test requirements of *the current* ANSI standard *or other generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation*~~[-Z-97.1-1966]~~
- (b) *Is so constructed, treated, or combined with other materials to minimize the likelihood of cutting or piercing injuries resulting from human contact with the glazing material; and*
- (c) *Complies with any further requirements that may be adopted by the department*~~[and such further requirements as may be adopted by the Department of Housing, Buildings and Construction and which is so constructed, treated, or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material]; and~~
- (2) "Hazardous locations" means those installations, glazed or to be glazed, in residential, commercial and public buildings known as sliding glass doors, framed or unframed glass doors and adjacent fixed glazed panels which may be mistaken for means of ingress or egress, storm doors, shower doors, and tub inclosures, whether or not the glazing in such doors, panels or inclosures is transparent, and in any other area wherein the use of other than safety glazing materials would constitute a hazard.

➔Section 16. KRS 198B.310 is amended to read as follows:

- (1) Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in *a similar*~~[such a]~~ location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator, or installer, and the nominal thickness and the type of safety glazing material and the fact that *the*~~[said]~~ material meets the test requirements of *the current* ANSI standard~~[-Z-97.1-1966]~~ *or other generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation*; and *any*~~[such]~~ further requirements *that*~~[as]~~ may be adopted by the department~~[of Housing, Buildings and Construction]~~. The label *shall*~~[must]~~ be legible and visible after installation.
- (2) ~~[Such]~~Safety glazing labeling shall not be used on other than safety glazing materials.

➔Section 17. KRS 198B.400 is amended to read as follows:

As used in KRS 198B.400 to 198B.540, unless the context otherwise requires:

- (1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters,

escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus;

- (2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity;
- (3) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride;
- (4) "General inspector" means a state inspector examined and hired to inspect elevators for the department ~~of Housing, Buildings and Construction~~;
- (5) "Special inspector" means an inspector examined and certified by the department to inspect elevators in the state;
- (6) "Inspector" means either a general or special inspector;
- (7) "Department" means the Department of Housing, Buildings and Construction;
- (8) "Certificate of operation" ~~means~~ ^{is} a certificate issued by the department authorizing the operation of an elevator which shall be conspicuously posted on the elevator at all times;
- (9) "Escalator" means a moving stairway consisting of steps attached to a continuously circulating belt that is used to move persons from one (1) level to another;
- (10) "Moving sidewalk" means horizontal flat panels attached to a continuously circulating belt used to move people;
- (11) "Fixed guideway system" means any nonrail system, funicular, or automated people mover, either air-suspended or wheeled, that is not regulated by the Federal Transit Administration;
- (12) "Mine elevator" means an elevator permanently installed in a mine shaft to provide vertical transportation of mine personnel, their tools, equipment, and mine supplies;
- (13) "Stage elevator" means a section of a stage arranged to be raised and lowered above and below the stage in a vertical direction;
- (14) "Orchestra elevator" means a platform used for raising and lowering musicians in an orchestra in a vertical direction;
- (15) "Organ console elevator" means a mechanism used for raising and lowering an organ console, including the organist, in a vertical direction;
- (16) "Material lift" means a hoisting and lowering mechanism equipped with a car that moves within a guide system installed at an angle of greater than seventy (70) degrees from the horizontal, serving two (2) or more landings, for the purpose of transporting materials that are manually or automatically loaded or unloaded. A person shall not ride on a material lift;
- (17) ~~["Committee" means the Elevator Advisory Committee;~~
- ~~(18)]~~ "Elevator contractor" means any sole proprietor, partnership, or corporation possessing an elevator contractor license issued by the department and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;
- ~~(18)(19)]~~ "Elevator mechanic" means any person who:
 - (a) Possesses an elevator mechanic license issued by the department;
 - (b) Is employed by an elevator contractor; and
 - (c) Is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;
- ~~(19)(20)]~~ "Elevator helper" or "elevator apprentice" means any person who works under the general supervision of a licensed elevator mechanic. An elevator helper or elevator apprentice is not subject to licensure;
- ~~(20)(21)~~ "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- ~~(21)(22)]~~ "Direct and immediate supervision" means that the licensed supervising authority is on site. The supervisor is not required to have actual or direct sight of the person being directly supervised;

- ~~(22)~~~~(23)~~ "General supervision" means that the supervising authority oversees the work performed overall but is not required to be on-site at all times during work relating to elevators or fixed guideway systems;
- ~~(23)~~~~(24)~~ "Accessibility and residential elevator mechanic" means any person who:
- (a) Possesses an accessibility and residential elevator mechanic license issued by the department;
 - (b) Is employed by an elevator contractor; and
 - (c) Is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining accessibility lifts and private residential elevators;
- ~~(24)~~~~(25)~~ "Accessibility lift" means a hoisting and lowering mechanism, that moves within a guide system, serving two (2) or more landings, for the purpose of transporting a person; and
- ~~(25)~~~~(26)~~ "Private residential elevator" means a passenger elevator installed within a structure subject to the Kentucky Residential Code as established in 815 KAR 7:125, but shall not be shared by units if installed in a multifamily dwelling.

➔Section 18. KRS 198B.4003 is amended to read as follows:

- (1) Only a licensed elevator mechanic working under the general supervision of an elevator contractor may:
 - (a) Erect, construct, alter, replace, maintain, remove, or dismantle any elevator or fixed guideway system contained within buildings or structures; or
 - (b) Wire any elevator or fixed guideway system from the mainline feeder terminals on the controller.
- (2) A licensed elevator contractor ***shall not be***~~is not~~ required for removing or dismantling elevators or fixed guideway systems:
 - (a) That are destroyed as a result of a complete demolition of a secured building or structure; or
 - (b) Where the hoistway or wellway is demolished back to the basic support structure and does not allow access that could endanger the safety and welfare of a person.

➔Section 19. KRS 198B.4009 is amended to read as follows:

- (1) A person shall not work as an elevator contractor or elevator mechanic unless licensed by the department. A person may work as an elevator helper or apprentice without a license while under the general supervision of a licensed elevator mechanic.
- (2) A person who is a regular and bona fide full-time employee of a public university and who performs only routine maintenance on elevators for the public university shall be licensed as an elevator mechanic. The public university shall not be required to become licensed as an elevator contractor to employ a licensed elevator mechanic performing elevator maintenance for the public university under this subsection. An elevator mechanic who qualifies under this subsection shall only be authorized to conduct routine maintenance on any elevators for the public university, and shall be prohibited from performing any of the other activities authorized by KRS 198B.4003(1).
- (3) The department, ***with input and comments from the committee if required by KRS 198B.030(8)***, may promulgate administrative regulations necessary to implement KRS 198B.400 to 198B.540.

➔Section 20. KRS 198B.4023 is amended to read as follows:

- (1) ~~At Each~~ person licensed under ~~the provisions of~~ KRS 198B.400 to 198B.540 shall annually, on or before the last day of the licensee's birth month, renew his or her license.
- (2) A sixty (60) day grace period shall be allowed after the anniversary date of the license, during which time a licensee may continue to practice and may renew his or her license upon meeting the requirements promulgated through administrative regulations by the department.
- (3) A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination ***of a license***, the licensee shall be ineligible to practice in the Commonwealth.
- (4) After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon meeting the requirements promulgated through administrative regulations by the department. An applicant for reinstatement after termination of the license shall not be required to submit to any

examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.

- (5) A suspended license ~~shall be~~^{is} subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.
- (6) A revoked license ~~shall be~~^{is} subject to reinstatement, expiration, or termination but ~~shall~~^{may} not be renewed.
- (7) An applicant for renewal or reinstatement of a license shall show evidence of completing at least eight (8) hours of continuing education provided by the National Elevator Industry Educational Program, National Association of Elevator Contractors, or another provider approved by the department. The department shall promulgate administrative regulations establishing the permissible content of continuing education programs and the qualifications of the providers.
- (8) When applicable, an applicant for renewal or reinstatement of an elevator contractor license shall submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained general liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence, with coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence.
- (9) The department may, through the promulgation of administrative regulations:
 - (a) Establish an inactive license for licensees who are not actively engaging in the elevator or fixed guideway system business, but who wish to maintain their license;
 - (b) Determine continuing education requirements for reactivation;
 - (c) Waive the insurance requirements established in subsection (8) of this section for inactive licensees; and
 - (d) Establish reactivation procedures.

➔Section 21. KRS 198B.4025 is amended to read as follows:

- (1) **An applicant for** the renewal of ~~an~~^{all} elevator contractor ~~license or~~^{and} elevator mechanic ~~license~~^{licenses} shall ~~submit~~^{be conditioned upon the submission of} a certificate of completion ~~from~~^{of} a continuing education course or courses that instruct licensees on new and existing applicable administrative regulations of the department.
- (2) Licensed elevator contractors and licensed elevator mechanics shall complete at least eight (8) hours of continuing education annually. Continuing education for a renewal year shall be attended and completed during that renewal year.
- (3) Continuing education courses shall be taught by instructors employed by continuing education providers that may include but shall not be limited to association seminars and labor training programs. Continuing education programs provided by the National Elevator Industry Educational Program or the National Association of Elevator Contractors shall be approved to meet the requirements for continuing education. The department may approve other education programs that meet its requirements established through administrative regulation under KRS 198B.4023(7).
- (4) A licensee who is unable to complete the continuing education requirements for renewal under this section prior to the expiration of his or her license due to temporary disability may apply for a waiver from the department. The waiver shall be on a form provided by the department, with a notarized signature of the licensee, and accompanied by a certified statement from a physician attesting to the temporary disability. Application for medical waiver ~~shall~~^{must} be received by the department prior to the final day of the licensee's birth month. Upon termination of the temporary disability, the licensee shall submit a supplementary certified statement attesting to the termination of the temporary disability and proof of attendance of at least eight (8) hours of continuing education.
- (5) Falsifying or knowingly allowing another to falsify continuing education attendance records or certificates of completion shall constitute grounds for revocation of program approval required under this section.

➔Section 22. KRS 198B.4037 is amended to read as follows:

- (1) The elevator safety program trust fund is created in the State Treasury as a separate revolving fund to be administered by the department ~~of Housing, Buildings and Construction~~. The trust fund shall consist of amounts deposited in the fund as provided in KRS 198B.530 and any other proceeds from grants, contributions, appropriations, or other money made available for the purposes of the trust fund.
- (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year to be used for the purposes set forth in this section.
- (3) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.
- (4) Trust fund moneys shall be used and are hereby appropriated for reasonable administrative expenses associated with the elevator safety ~~program and other purposes as specified in KRS 198B.4005(7)~~.

➔Section 23. KRS 198B.410 is amended to read as follows:

- (1) ***A person shall not act*** ~~No person may act~~ either as a general inspector or as a special inspector of elevators or fixed guideway systems unless he or she holds a certificate of competency from the department.
- (2) Application for examination as an inspector of elevators shall be in writing, accompanied by a fee of ten dollars (\$10), upon a ***form*** ~~blank to be~~ furnished by the department, stating the school education of the applicant, a list of his or her employers, his or her period of employment, and the position held with each. An applicant shall also submit a letter from one (1) or more of his or her previous employers ***attesting*** ~~certifying as~~ to his or her character and experience.
- (3) Applications ~~that shall be rejected which~~ contain any willful falsification or untruthful statements ***shall be rejected***. The applicant, if the department deems his or her history and experience sufficient, shall be tested by means of a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators, fixed guideway systems, and their appurtenances. ~~and~~ The applicant shall be accepted or rejected on the merits of his or her application and examination.
- (4) The department shall promulgate administrative regulations establishing the training and certification requirements for inspectors of fixed guideway systems.
- (5) The department shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety (90) days, and upon payment of an examination fee of ten dollars (\$10), to another examination. ~~If should~~ an applicant ~~fails fail~~ to pass the prescribed examination on ***a*** second ~~attempt trial~~, he or she ***shall*** ~~will~~ not be permitted to ***apply*** ~~be an applicant~~ for another examination for a period of one (1) year after the second failure.

➔Section 24. KRS 198B.420 is amended to read as follows:

- (1) The department shall administer all aspects of the State Elevator and Fixed Guideway System Inspection Program.
- (2) The program shall be directed by a person with at least five (5) years' experience in the inspection or construction, installation, maintenance, and repair of elevators, fixed guideway systems, and their appurtenances.
- (3) The commissioner ~~of housing, buildings and construction~~ may appoint and hire, from the holders of certificates of competency, general inspectors of elevators.
- (4) Any person may request an investigation into an alleged violation of KRS 198B.400 to 198B.540 by giving notice to the department of the violation or danger. This notice shall be:
 - (a) In writing;
 - (b) Set forth with particularity regarding the grounds for the notice; and
 - (c) Signed by the person making the request.
- (5) If, upon receipt of the request for investigation, the department determines that there is evidence that a violation or danger exists, the department shall conduct an investigation in accordance with KRS 198B.400 to 198B.540 as soon as practicable. If the department finds no grounds to substantiate that a violation or danger exists, the department shall notify the requesting party in writing of the findings within fourteen (14) calendar days of the determination.

➔Section 25. KRS 198B.430 is amended to read as follows:

From the holders of certificates of competency in the inspection of elevators, any company which is authorized to insure elevators in the state may designate persons to inspect elevators covered by ~~that[such]~~ company's policies, and the municipal government of any city may designate ~~such~~ persons to inspect elevators in ~~that[such]~~ city.

➔Section 26. KRS 198B.490 is amended to read as follows:

- (1) The department shall make, alter, amend, ~~or~~~~and~~ repeal rules and administrative regulations exclusively for the safety and inspection of passenger elevators and fixed guideway systems. The department shall have the authority to prescribe, by administrative regulation, a reasonable fee to be charged for each inspection. All fees established and regulated by this section shall be paid to the department, made payable to the Kentucky State Treasurer, except as may be provided in a specific written agreement between the commissioner and any agency authorized to inspect elevators or fixed guideway systems by ~~the provisions of~~ this chapter.
- (2) The department shall consult with ~~the Elevator Advisory Committee,~~ engineering authorities~~,~~ and organizations concerned with standard safety codes, rules, and administrative regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of elevators and fixed guideway systems, and the qualifications that are necessary for an elevator mechanic, contractor, and inspector.
- (3) The department shall promulgate administrative regulations establishing the approved equipment regulated by KRS 198B.400 to 198B.540. These administrative regulations shall include the following, except as modified under subsection (4) of this section:
 - (a) Safety Code for Elevators and Escalators, ASME A17.1/CSA B44;
 - (b) Safety Code for Existing Elevators and Escalators, ASME A17.3;
 - (c) Performance-Based Safety Code for Elevators and Escalators, ASME 17.7/CSA B44.7;
 - (d) Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1;
 - (e) Standard for the Qualification of Elevator Inspectors, ASME OEI-1; and
 - (f) Automated People Mover Standards, ASCE 21.
- (4) The department and the committee shall review the latest editions of any standard listed in subsection (3) of this section within twelve (12) months of that standard's effective date. Upon completion of reviews, the committee shall give the department its recommendations, ***after which the department may adopt or modify the*** ~~for or against adoption or modification of a~~ standard.
- (5) All administrative regulations issued by the department relating to KRS 198B.400 to 198B.540 shall be consistent with the standards of safety as established in 815 KAR 10:060 and the Uniform State Building Code established in KRS 198B.050.

➔Section 27. KRS 198B.540 is amended to read as follows:

- (1) If the department's inspector of elevators and fixed guideway systems or a general inspector of elevators or fixed guideway systems finds that a passenger elevator, fixed guideway system, or a part thereof does not afford reasonable safety, the department or the general inspector ~~shall~~~~may~~ post a notice upon the elevator or fixed guideway system prohibiting further use of the elevator or fixed guideway system until the changes or alterations set forth in the notice have been made to the satisfaction of the department or the inspector. ~~The~~~~Said~~ notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of the notice, and name and signature of the department or inspector issuing the notice.
- (2) If any inspector of elevators or fixed guideway systems finds a passenger elevator or fixed guideway system to be so unsafe as can be reasonably expected to offer imminent danger of death or physical injury, that unit shall be sealed out of service, a hazard notice posted thereon, and the department shall be notified immediately ***of the exact*** ~~as to the~~ location and condition of the unit.
- (3) ~~At~~~~Any~~ passenger elevator or fixed guideway system, once sealed, shall not be operated except for the purpose of effecting repairs and in the manner prescribed by the department, until all defects are corrected and the unit has been inspected and certified as safe by the department.
- (4) Sealing shall consist of rendering a passenger elevator unit or fixed guideway system inoperable by disconnecting power ~~or~~~~and/or~~ by placing a sealing device on the operation switch and ordering additional

measures to be effected by the owner, such as erection of barricades, as may be required to prevent use of or public access to the unit.

- (5) No seal, notice, or barricade placed on or around an elevator or fixed guideway system in accordance with ~~the provisions of~~ this chapter shall be removed, obstructed or in any way altered without the written consent of the department.

➔Section 28. KRS 198B.550 is amended to read as follows:

As used in KRS 198B.555 to 198B.630, unless the context requires otherwise:

- (1) "Department" means the Department of Housing, Buildings and Construction;~~[-]~~
- (2) "Commissioner" means the commissioner of the department;~~[-]~~
- (3) ~~["A-"]~~"Fire protection sprinkler contractor" *means*~~[-is]~~ a person engaged in the preparation of technical drawings, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems and has in his or her employment a certificate holder;~~[-]~~
- (4) ~~["A-"]~~"Fire protection sprinkler contractor's license" *means*~~[-is]~~ the license issued by the commissioner to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of KRS 198B.580. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon;~~[-]~~
- (5) ~~["A-"]~~"Certificate holder" *means*~~[-is]~~ an individual who has satisfactorily met and *the requirements established in KRS 198B.570 and* has received a certificate from the commissioner; ~~and~~~~under the provisions of KRS 198B.570.~~
- (6) ~~["A-"]~~"Fire protection sprinkler system" *means*~~[-is]~~ a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant, and sufficient water, gas, or chemical supply, such as a gravity tank, fire pump, reservoir, or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main, or both. The sprinkler system is considered the fire protection sprinkler system for purposes of KRS 198B.550 to 198B.630, and is a network of specially sized or hydraulically designed piping and includes installations overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas, or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the department.

➔Section 29. KRS 198B.555 is amended to read as follows:

- (1) The administration of KRS 198B.550 to 198B.630 is vested in the Department of Housing, Buildings and Construction.
- (2) The commissioner shall:
 - (a) Promulgate reasonable administrative regulations necessary for the administration of KRS 198B.550 to 198B.630;
 - (b) Set or make reasonable changes in the fees charged for permits, testing, and other aspects of the administration of KRS 198B.550 to 198B.630;
 - (c) Enforce the provisions of KRS 198B.550 to 198B.630; and
 - (d) Conduct investigations of complaints and conduct administrative hearings as are required by KRS 198B.620 and 198B.625 and in accordance with~~the provisions of~~ KRS Chapter 13B.
- (3) The commissioner may:
 - (a) Secure the advice of the~~Board of Housing, Buildings and Construction~~ *committee* with regard to administrative regulations *if required by KRS 198B.030(8)*;
 - (b) Have the competency test prepared by a source other than the commissioner.

➔Section 30. KRS 198B.565 is amended to read as follows:

- (1) The design for any fire protection sprinkler system for buildings and structures shall be prepared by a licensed professional engineer or, if the licensed, professional engineer chooses not to prepare the design, a licensed fire protection sprinkler contractor whose certificate holder is a certified engineering technician, NICET Level III or Level IV, may prepare the design.
- (2) When a fire protection sprinkler system is designed by a professional engineer in accordance with subsection (1) of this section, the licensed fire protection sprinkler contractor shall submit to the professional engineer, for his approval, technical drawings and, when required, hydraulic calculations for the installation of the fire protection sprinkler system. Such technical drawings, after approved by the professional engineer, shall be submitted by the professional engineer to the department~~[of Housing, Buildings and Construction]~~, the insurance authority having jurisdiction, if any, and other authority when required by Kentucky law.
- (3) When a fire protection sprinkler system is designed by a licensed fire protection sprinkler contractor in accordance with subsection (1) of this section, the licensed fire protection sprinkler contractor shall submit ~~the[such]~~ design and detailed plans to the department~~[of Housing, Buildings and Construction]~~, the insurance authority having jurisdiction, if any, and other authority when required by Kentucky law.

➔Section 31. KRS 198B.570 is amended to read as follows:

To become a certificate holder under KRS 198B.560, an applicant ~~shall[must]~~ satisfactorily pass a current examination prescribed and administered by the National Institute for Certification in Engineering Technologies entitled Fire Protection Engineering Technology Automatic Sprinkler System Design Level III, or the equivalent thereof, approved by the commissioner.

➔Section 32. KRS 198B.580 is amended to read as follows:

To become a licensed fire protection sprinkler contractor under KRS 198B.560, a person ~~shall[must comply with the following]:~~

- (1) ~~[Must]~~ Have in his *or her* employ a certificate holder;
- (2) Comply with the minimum insurance requirements *established by*~~[of]~~ KRS 198B.595; and
- (3) Make application to the commissioner for a license and pay the fees required.

➔Section 33. KRS 198B.585 is amended to read as follows:

- (1) Each certificate holder engaged in the activity described ~~in[under]~~ KRS 198B.560 shall secure a seal with the design prescribed by regulation of the commissioner.
- (2) All working drawings, specifications, and plans prepared by, or under the supervision of the certificate holder, ~~shall[must]~~ bear the imprint of this seal and shall bear the imprint of the seal of the licensed fire protection contractor.
- (3) No certificate holder shall assign or affix his or her seal to any drawings, specifications or plans which have not been prepared under his or her immediate supervision, and no licensed fire protection contractor shall affix his or her seal to ~~any[such]~~ drawings, specifications, or plans unless *the drawings, specifications, or plans[same]* were prepared by *an employee* certificate holder~~[employee]~~ as *required by*~~[provided for in]~~ KRS 198B.560 and 198B.580.

➔Section 34. KRS 198B.595 is amended to read as follows:

- (1) The commissioner shall not issue a license under KRS 198B.560 and 198B.580, unless the fire protection sprinkler contractor applicant files with the commissioner proof of liability insurance coverage of not less than two hundred and fifty thousand dollars (\$250,000) one person/maximum and five hundred thousand dollars (\$500,000) one accident/maximum and workers' compensation insurance as provided for in KRS Chapter 342.
- (2) The workers' compensation insurance required by this section ~~shall[must]~~ be in the form of certificate of insurance executed by an insurer authorized to do business in this state. The liability insurance required by this section shall be liability insurance that covers the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as a fire protection sprinkler contractor or system designer and shall be in the form of certificate of insurance executed by an insurer authorized to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210. Insurance certificates filed with the commissioner under this section shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the commissioner.

- (3) Failure to maintain the insurance required hereunder ***shall constitute***~~[constitutes]~~ grounds for denial, suspension, or revocation of a license under KRS 198B.620 by the commissioner.

➔Section 35. KRS 198B.600 is amended to read as follows:

A certificate holder shall not~~[In no case shall a certificate holder be allowed to]~~ obtain a fire protection sprinkler contractor's license for more than one (1) fire protection sprinkler contractor at a time. If the certificate holder ***leaves***~~[should leave]~~ the employment of the fire protection sprinkler contractor, he or she ***shall***~~[must]~~ notify the commissioner within thirty (30) days. The certificate holder shall not be eligible to obtain a fire protection sprinkler contractor's license for more than one (1) other fire protection sprinkler contractor for a period of twelve (12) months thereafter. If the certificate holder ***leaves***~~[should leave]~~ the employment of the fire protection sprinkler contractor, or ***dies***~~[die]~~, the contractor shall have six (6) months or until the expiration of the current license, whichever shall last occur, to submit a new application on another certificate holder and be issued a new license. If ***the***~~[such]~~ application is not received and a new license issued within the allotted time, the commissioner shall revoke the license of the fire protection sprinkler contractor.

➔Section 36. KRS 198B.605 is amended to read as follows:

- (1) (a) All certificates issued under KRS 198B.570 shall expire on the last day of the certificate holder's birth month in the following year. The department may reduce the license fee on a pro rata basis for initial certificates issued for less than twelve (12) months. Renewed certificates shall expire on the last day of the certificate holder's birth month of each year after the date of issuance of the renewed certificate. Application for a renewal shall be upon ***a form***~~[such form as is]~~ prescribed by the commissioner, and the certificate holder shall furnish the information required by ***the***~~[such]~~ form.
 - (b) Failure of any certificate holder to secure his or her renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the commissioner to revoke his or her license.
 - (c) The commissioner may restore a certificate that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.
- (2) A certificate holder may voluntarily surrender his or her certificate to the commissioner and thereby be relieved of the annual renewal fee. After surrendering ***a***~~[of]~~ certificate, he or she shall not be known as a certificate holder and shall desist from the practice thereof. Within five (5) years from the time of surrender of the certificate, he or she may again qualify for a certificate without examination by the payment of the required fee. If five (5) years thereafter have lapsed, he or she shall return to the status of a new applicant.
- (3) (a) The initial license for a fire protection sprinkler contractor shall expire on the last day of the licensee's birth month in the following year. The department may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license. Application for a renewal shall be upon ***a form***~~[such form as is]~~ prescribed by the commissioner and ***the*** license holder shall furnish the information required by ***the***~~[such]~~ form.
 - (b) Failure of any certificate holder to secure ***a***~~[his]~~ renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the commissioner to revoke ***the***~~[his or her]~~ license.
 - (c) The commissioner may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

➔Section 37. KRS 198B.610 is amended to read as follows:

- (1) If a licensed fire protection sprinkler contractor desires to do business in any part of the state, he ***or she*** shall ***deliver to the local building official a copy of his or her fire protection sprinkler contractor's license and comply with KRS 198B.560 and 198B.565***~~[be required by KRS 198B.560 and 198B.565 to deliver to the local building official a copy of his fire protection sprinkler contractor's license]~~. The local building official shall require a copy of the license before issuing a license or building license, and no local official shall impose any other competency requirements on the licensed fire protection sprinkler contractor.
- (2) Nothing in KRS 198B.560 and 198B.565 ***shall limit***~~[limits]~~ the power of a city, urban-county ***government***, county, or state to regulate the quality and character of work performed by contractors, through a system of permits, fees and inspections which are designed to assure compliance with, and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

Nothing in KRS 198B.560 and 198B.565 ~~shall limit~~^{limits} the power of a city, urban-county **government**, county, or the state to adopt any system of permits requiring submission to and approval by the city, urban-county **government**, county, or the state of plans and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly licensed by requiring evidence of a valid fire protection sprinkler contractor's license as a prerequisite to that contractor beginning design, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems.

- (3) KRS 198B.560 and 198B.565 **shall** apply to any fire protection sprinkler contractor performing work for any city, urban-county **government**, special district, county, or the state. Officials of any city, urban-county **government**, special district, county, or the state ~~shall be required to~~ determine compliance with KRS 198B.560 and 198B.565 before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid fire protection sprinkler contractor's license.

➔Section 38. KRS 198B.620 is amended to read as follows:

- (1) Subject to a hearing conducted in accordance with KRS Chapter 13B, the commissioner may refuse to renew or may suspend or revoke the license of a licensed fire protection sprinkler contractor or the certificate of a certificate holder to engage in the business of fire protection sprinkler systems or in lieu thereof ~~assess~~^{establish} an administrative fine not to exceed two thousand dollars (\$2,000) for any of the following reasons:
- (a) Gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection, or addition to fire protection sprinkler systems, as determined by the commissioner;
 - (b) Conviction of a felony;
 - (c) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems;
 - (d) Use of false evidence or misrepresentation in an application for a license or certificate;
 - (e) Signing or affixing his or her seal to any plans, prints, specifications or reports, which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of KRS 198B.585;
 - (f) Knowingly violating any provisions of KRS 198B.550 to 198B.630 or the regulations issued thereunder.
- (2) The commissioner shall revoke, subject to a hearing in accordance with KRS Chapter 13B, the license of a ~~licensed~~ fire protection sprinkler contractor or a certificate holder who engages in the fire protection sprinkler system business **during a suspension of the license** ~~while his or her or its license is suspended~~.
- (3) Any person who engages in the drawings, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems or uses any title, sign, card, or device indicating or intending to indicate that he or she is a certified fire sprinkler contractor without having first obtained the requisite license or certificate shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.
- (4) Any license or certificate holder who is aggrieved by a final order of the commissioner suspending or revoking a license may appeal to the Franklin Circuit Court or the Circuit Court of the county of the license or certificate holder's place of business in accordance with KRS Chapter 13B.

➔Section 39. KRS 198B.6401 is amended to read as follows:

- (1) The department shall issue a fire sprinkler inspector certification to an applicant who ~~meets the following requirements~~:
- (a) Is at least eighteen (18) years of age;
 - (b) Submits a completed fire sprinkler inspector's written or electronic application form as provided by the department;
 - (c) Provides a certificate of insurance that:
 - 1. a. Is issued by an insurance company or other legal entity permitted to transact insurance business in Kentucky;

- b. Insures for general liability coverage of at least five hundred thousand dollars (\$500,000); and
 - c. Includes liability insurance that shall cover the legal liability of the certified fire sprinkler inspector as the result of erroneous acts or failure to act in his or her capacity as a fire sprinkler inspector and shall be in the form of a certificate of insurance executed by an insurer permitted to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210; or
- 2. Submits an affidavit completed by a sprinkler contractor that the applicant is and will be an employee of a currently licensed sprinkler contractor in good standing with the department;
- (d) 1. Provides proof of passing scores on all portions of a standardized examination approved by the commissioner; or
- 2. **Holds a current**~~Is a current holder of~~ certification from the National Institute for Certification in Engineering Technologies (NICET) for "Inspection and Testing of Water-Based Systems" Level 2 or higher; and
- (e) Upon request by the department, **provides** supplemental documentation of information as required under this subsection.
- (2) All certification cards issued by the department shall remain the property of the department.
- ➔Section 40. KRS 198B.6405 is amended to read as follows:
- (1) The initial annual certification for a fire sprinkler inspector shall be for not less than seven (7) months nor more than eighteen (18) months.
- (2) ~~At~~~~Any certification for a~~ fire sprinkler inspector **certification** issued in accordance with this chapter shall expire on the last day of the inspector's birth month in the year following certification.
- (3) Renewal notices shall be sent to each certified inspector at least sixty (60) days prior to the expiration of his or her certification. The notice shall:
 - (a) Inform the certified inspector of the need to renew the certification; and
 - (b) Describe the materials to be submitted with a request for renewal.
- (4) An **applicant for renewal of**~~individual who applies to renew~~ a ~~certification as a certified~~ fire sprinkler inspector **certification** shall:
 - (a) Complete and submit the fire sprinkler inspector's written or electronic renewal form as provided by the department;
 - (b) Show proof of general liability insurance in the amount required by this chapter; and
 - (c) 1. Provide proof of completion of six (6) hours of continuing education prior to certification renewal. The required continuing education shall be **accrued**~~received~~ within the twelve (12) months prior to renewal; or
 - 2. Submit proof that the inspector is a current and valid holder of NICET certification in the testing of water-based systems.
- (5) A thirty (30) day grace period shall be allowed after the renewal deadline of the certification. ~~At during which time a~~ fire sprinkler inspector may continue to practice **during this grace period** and may renew his or her certification upon meeting the requirements promulgated through administrative regulation by the department.
- (6) Any certification not renewed on or before the last day of the thirty (30) day grace period shall terminate based upon failure to timely renew **the** certification. Upon termination **of a certification**, the individual shall ~~not~~~~no longer be eligible to~~ inspect within the Commonwealth.
- (7) After expiration of the thirty (30) day grace period, a formerly certified fire sprinkler inspector with a terminated certification shall have the certification reinstated upon meeting the requirements promulgated through administrative regulation by the department. An applicant for reinstatement after termination of his or her certification shall not be required to submit to any examination as condition for reinstatement, if the reinstatement application is made within two (2) years from the date of certification termination.

- (8) After termination and two (2) years, the applicant shall retest and comply with *the* application requirements set forth in KRS 198B.6401.

➔Section 41. KRS 198B.6407 is amended to read as follows:

- (1) The certification requirements established within this chapter may be waived for a person moving into the Commonwealth from another jurisdiction, and a fire sprinkler inspector's certification granted, if ~~the person meets the following requirements~~:
- (a) The other jurisdiction grants the same privileges to certified fire sprinkler inspectors of Kentucky as Kentucky grants to certified or licensed fire sprinkler inspectors of that other jurisdiction;
 - (b) The individual is certified or licensed in the other jurisdiction;
 - (c) The certification or licensing requirements of the other jurisdiction are substantially similar to the requirements in this chapter; and
 - (d) The individual submits a notarized letter stating that he or she has read, is familiar with, and will abide by this chapter and the administrative regulations promulgated by the department.
- (2) An individual seeking a fire sprinkler inspector's certification under this section shall:
- (a) Submit a completed fire sprinkler inspector's written or electronic application form as provided by the department; and
 - (b)
 1. Provide a certificate of insurance ~~that is~~ issued by an insurance company or other legal entity permitted to transact business in Kentucky with a general liability coverage of at least five hundred thousand dollars (\$500,000). Liability insurance shall cover the legal liability of the certified fire sprinkler inspector as the result of erroneous acts or failure to act in his or her capacity as a fire sprinkler inspector and shall be in the form of a certificate of insurance executed by an insurer permitted to do business in this state or exported by a licensed surplus lines broker to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210; or
 2. Submit an affidavit from a sprinkler contractor that he or she is covered as an employee of a sprinkler contractor that is in good standing and currently licensed by the department.

➔Section 42. KRS 198B.6411 is amended to read as follows:

The standards to be utilized in the inspection of sprinkler systems shall be the standards set forth in the National Fire Protection Association's Article 25: Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems and *shall be* ~~is~~ the edition prescribed by the commissioner or other national standard as approved by the commissioner.

➔Section 43. KRS 198B.6413 is amended to read as follows:

- (1) The procedures set forth in KRS Chapter 13B shall govern the department's conduct of disciplinary hearings.
- (2) The commissioner may summarily suspend a certification for up to ninety (90) days before a final adjudication or during an appeal of the commissioner's determination if he or she believes that the certification would represent a clear and immediate danger to the public's health, safety, or property if the inspector is allowed to perform sprinkler system inspections.
- (3) The commissioner shall issue a letter to cease and desist with notice of opportunity to be heard in accordance with KRS Chapter 13B, to any individual if the commissioner:
 - (a) Determines that an individual is not certified under ~~the provisions of~~ this chapter; and
 - (b) Determines that the individual is engaged in, or believed to be engaged in, activities for which a fire sprinkler inspector's certification is required under this chapter.
- (4) After completion of the hearing, if it is determined that the activities in which the individual is engaged are subject to certification under this chapter, the commissioner shall issue a cease-and-desist order that identifies the individual and specifically states the activities which are subject to the order.
- (5) A cease-and-desist order issued under this section shall be enforceable in the Circuit Court of the county of the *individual's* ~~certified inspector's~~ place of business in accordance with KRS Chapter 13B.

➔Section 44. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

- (1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;
- (2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;
- (3) ~~["Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors;~~
- ~~(4)~~ (5) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;
- ~~(4)~~~~(5)~~ "Certificate" means a document issued by the *department*~~[board]~~ to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;
- ~~(5)~~~~(6)~~ "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- ~~(6)~~~~(7)~~ "Department" means the Department of Housing, Buildings and Construction;
- ~~(7)~~~~(8)~~ "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;
- ~~(8)~~~~(9)~~ "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;
- ~~(9)~~~~(10)~~ "Initial heating, ventilation, or air conditioning system" means the first or original heating, ventilation, or air conditioning system installed in a building;
- ~~(10)~~~~(11)~~ "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the *department*~~[board]~~ to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;
- ~~(11)~~~~(12)~~ "Maintenance person or maintenance engineer" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include replacement of heating, ventilation, or air conditioning systems;
- ~~(12)~~~~(13)~~ "Major repair" means the complete replacement of any of the following heating, ventilation, or air conditioning equipment:
 - (a) Furnaces;
 - (b) Condensing units;
 - (c) Heat pumps;
 - (d) Fan coil units;
 - (e) Chiller systems; or
 - (f) Heating boiler systems not covered by KRS Chapter 236;
- ~~(13)~~~~(14)~~ "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the *department*~~[board]~~ to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;
- ~~(14)~~(15) "Permit" means a document issued by the department or its authorized agent allowing the installation of an original heating, ventilation, or air conditioning system;
- ~~(15)~~~~(16)~~ "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;
- ~~(16)~~~~(17)~~ "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to ensure the proper operation, and the removal and replacement of component parts. "Routine maintenance of

heating, ventilation, or air conditioning" shall not include the installation of complete new heating, ventilation, or air conditioning systems; and

- (17)(18) "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

➔Section 45. KRS 198B.654 is amended to read as follows:

- (1) The ~~department~~~~board~~ shall promulgate administrative regulations *in accordance with KRS Chapter 13A* to:
 - (a) Administer, coordinate, and enforce~~the provisions of~~ KRS 198B.650 to 198B.689;
 - (b) Conduct examinations;
 - (c) Maintain a list of all licensees and certificate holders;
 - (d) Keep minutes of~~board~~ meetings and a record of its proceedings; and
 - (e) Register and keep records of all apprentices.
- (2) The ~~department~~~~board~~, or its designee, may issue subpoenas, administer oaths, examine witnesses, conduct disciplinary proceedings, investigate allegations of wrongdoing under KRS 198B.650 to 198B.689, issue licenses and certificates, and seek injunctive relief to enforce~~the provisions of~~ KRS 198B.650 to 198B.689. In seeking injunctive relief, the ~~department~~~~board~~ shall not be required to post any bond.

➔Section 46. KRS 198B.656 is amended to read as follows:

Except as otherwise provided in KRS 198B.650 to 198B.689:

- (1) A~~No~~ person shall *not claim to be or advertise as being*~~hold himself out as~~ a master heating, ventilation, and air conditioning contractor or assume or use any title, designation, or abbreviation likely to create the impression of this licensure, unless *that person*~~he~~ is the holder of a valid master heating, ventilation, and air conditioning contractor's license issued in accordance with~~the provisions of~~ KRS 198B.650 to 198B.689. The holder of a valid master heating, ventilation, and air conditioning contractor's license shall be entitled to practice heating, ventilation, and air conditioning contracting, including the obtaining of any necessary permits in connection with the practice of heating, ventilation, and air conditioning contracting, and shall be primarily responsible for the heating, ventilation, and air conditioning work performed;
- (2) A~~No~~ person shall *not claim to be or advertise as being*~~hold himself out as~~ a journeyman heating, ventilation, and air conditioning mechanic or assume or use any title, designation, or abbreviation likely to create the impression of this licensure, unless *that person*~~he~~ is the holder of a valid journeyman heating, ventilation, and air conditioning mechanic's license issued in accordance with~~the provisions of~~ KRS 198B.650 to 198B.689;
- (3) A~~No~~ person shall *not claim to be or advertise as being*~~hold himself out as~~ an apprentice heating, ventilation, and air conditioning mechanic or assume or use any title, designation, or abbreviation likely to create the impression of certification, unless *that person*~~he~~ is the holder of a valid apprentice heating, ventilation, and air conditioning mechanic's certificate issued in accordance with~~the provisions of~~ KRS 198B.650 to 198B.689; and
- (4) A~~No~~ person shall *not* practice heating, ventilation, and air conditioning contracting, unless *that person has met the requirements*~~he is otherwise qualified according to the provisions~~ of KRS 198B.650 to 198B.689.

➔Section 47. KRS 198B.658 is amended to read as follows:

- (1) An applicant for a master heating, ventilation, and air conditioning contractor's license shall:
 - (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;
 - (c)
 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades as a journeyman heating, ventilation, and air conditioning mechanic for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or
 2. Have been regularly and principally employed or engaged in the practice of heating, ventilation, and air conditioning contracting as a master heating, ventilation, and air conditioning contractor,

or equivalent thereof, for not less than five (5) years in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;

- (d) Have passed an examination prescribed by the ~~department~~~~board~~ to determine the applicant's competency to practice heating, ventilation, and air conditioning contracting; and
 - (e) Have paid a fee as established in administrative regulations promulgated by the ~~department~~~~board~~.
- (2) An applicant for a journeyman heating, ventilation, and air conditioning mechanic's license shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;
 - (c)
 - 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or
 - 2. Have been regularly and principally employed or engaged in the performance of heating, ventilation, and air conditioning work for not less than four (4) years in a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;
 - (d) Have passed an examination prescribed by the ~~department~~~~board~~ to determine the applicant's competency to install, maintain, and repair heating and cooling systems, heating and cooling service, burner service, and hydronic systems; and
 - (e) Have paid a fee as established in administrative regulations promulgated by the ~~department~~~~board~~.
- (3) If an applicant has obtained, while exempt from licensure under 198B.674(2), (7), (8), (10), (13), or (14), work experience that the ~~department~~~~board~~ determines to be equivalent to the requirements of subsection (1)(c) or (2)(c) of this section, ~~that such~~ experience may be considered as equivalent to one (1) year of employment toward the licensure requirements for a master heating, ventilation, and air conditioning contractor or journeyman heating, ventilation, and air conditioning mechanic, as applicable, not to exceed one (1) year.
- (4) (a) The ~~department~~~~board~~ shall issue an apprentice heating, ventilation, and air conditioning mechanic's certificate to any person who **registers as an apprentice**~~is registered~~ with the ~~department~~~~board~~.
- (b) The ~~department~~~~board~~ shall establish by administrative regulation the minimum number of hours of experience required by apprentices and shall maintain an apprentice register to credit an apprentice for hours worked under the supervision of a master heating, ventilation, and air conditioning contractor and journeyman heating, ventilation, and air conditioning mechanic. Experience gained under the supervision of a Kentucky licensed master heating, ventilation, and air conditioning contractor while registered as an apprentice with the Kentucky Labor Cabinet, Department of Workplace Standards, in cooperation with the United States Department of Labor, Bureau of Apprenticeship and Training shall be accepted toward the two (2) year experience requirement for a journeyman heating, ventilation, and air conditioning mechanic license.
- (c) The apprentice register shall include the name, address, Social Security number, employer, and dates of employment of the apprentice.
- (d) The apprentice shall notify the ~~department~~~~board~~ in writing of any change in address or employer.
- (e) Apprentices and pre-apprentices shall not be required to pay **a fee to obtain**~~fees for~~ a certificate of registration or **to renew** a registration~~renewal fee~~.
- (5) The satisfactory completion of one (1) academic year of a ~~department~~~~board~~-approved curriculum or one (1) year of professional training in heating, ventilation, and air conditioning work may be considered as equivalent to one (1) year of employment toward the licensure requirements for a journeyman heating, ventilation, and air conditioning mechanic, not to exceed one (1) year.
- (6) The satisfactory completion of one (1) academic year of teaching experience in a ~~department~~~~board~~-approved or state-approved technical education program in heating, ventilation, and air conditioning shall be considered as equivalent to one (1) year of employment, as required by subsection (1)(c) or (2)(c) of this section. No more than one (1) year of approved teaching experience may be used in meeting the requirements of subsection (1)(c) or (2)(c) of this section.

➔Section 48. KRS 198B.659 is amended to read as follows:

If an applicant for a master heating, ventilation, and air conditioning contractor's license or journeyman heating, ventilation, and air conditioning mechanic's license presents the ~~department~~~~board~~ with proof of training and experience equivalent to the training and experience requirements of KRS 198B.658(1) or (2), whichever is applicable, acquired while serving as a member of the United States Armed Forces, Reserves, or National Guard, and actively engaged in that occupation as part of his or her military duties for not less than two (2) years as annotated on the Department of Defense Form DD 214, the ~~department~~~~board~~ shall accept that training and experience. The applicant shall meet the remaining applicable qualification requirements set forth in KRS 198B.658(1) or (2).

➔Section 49. KRS 198B.660 is amended to read as follows:

- (1) (a) Applications for examination shall be in writing and shall contain all information required by the ~~department~~~~board~~. Applications shall be filed not less than forty-five (45) days prior to the examination date.
- (b)~~(a)~~ Not less than ten (10) days prior to an examination date, the ~~department~~~~board~~ shall send written notice of the date, hour, and place of the examination to each applicant for licensure or certification.
- (c)~~(b)~~ Each application for licensure or certification shall be accompanied by a nonrefundable application fee.
- (2) Examinations shall be given at least two (2) times during each calendar year at those times and places within the Commonwealth prescribed by the ~~department~~~~board~~. ~~An applicant shall not~~~~No applicant may~~ take an examination until the examination fee is paid.
- (3) Notice of passing or failing an examination shall be provided to each applicant as soon as practicable.

➔Section 50. KRS 198B.664 is amended to read as follows:

- (1) Every license issued by the ~~department~~~~board~~ may be renewed annually, on or before the last day of the licensee's birth month, upon payment of a renewal fee as established in administrative regulations promulgated by the ~~department~~~~board~~. Failure to renew shall cause the license to expire.
- (2) A sixty (60) day grace period shall be allowed after the expiration of the license, during which time the licensee may continue to practice and may apply to restore ~~the~~~~his or her~~ license upon payment of the renewal fee plus a restoration fee as established in administrative regulations promulgated by the ~~department~~~~board~~, and upon the provision of applicable proof of insurance~~as~~ required by KRS 198B.668.
- (3) A license that is not restored before the end of the sixty (60) day grace period shall immediately terminate. Upon termination of the license, the former licensee shall be ineligible to practice in the Commonwealth until he or she thereafter satisfies all applicable licensing requirements in accordance with this chapter.
- (4) After the sixty (60) day grace period, a former licensee with a terminated license may apply to have the license reinstated upon payment of the renewal fee plus a reinstatement fee~~as~~ established in administrative regulations promulgated by the ~~department~~~~board~~. An applicant for reinstatement shall not be required to submit to any examination as a condition of reinstatement if the reinstatement application is made within three (3) years from the date of termination.
- (5) Notwithstanding the requirements of this section, an applicant for renewal, restoration, or reinstatement shall satisfy all other applicable qualifications for licensure as required by this chapter and the administrative regulations promulgated hereunder.
- (6) Those persons licensed by the ~~department~~~~board~~ and not engaged in the practice of heating, ventilating, and air conditioning in the Commonwealth may apply for and be granted inactive status by the ~~department~~~~board~~ in accordance with administrative regulations promulgated by the ~~department~~~~board~~. A licensee granted inactive status shall not ~~engage in the~~~~retain the right to statewide~~ practice of heating, ventilation, and air conditioning. An inactive license shall not be a valid license. A licensee on inactive status may petition the ~~department~~~~board~~ for restoration of a license to practice~~actively~~. The petitioner shall pay a reactivation fee, satisfy all other requirements as established in administrative regulations promulgated by the ~~department~~~~board~~, and, if applicable, obtain the insurance as required by KRS 198B.668.

➔Section 51. KRS 198B.666 is amended to read as follows:

Any person who has been issued a license in another state which has licensing, educational, and experience requirements substantially equal to or greater than those of this state and which grants equal licensing privileges to

persons licensed in this state, may be issued an equivalent license in this state upon terms and conditions determined by the ~~department~~~~board~~.

➔Section 52. KRS 198B.6671 is amended to read as follows:

- (1) Notwithstanding KRS 198B.030 to the contrary, any person who installs an initial heating, ventilation, or air conditioning system shall apply for a permit prior to beginning the installation. No installation shall begin before the application for the permit has been filed. In no event, however, shall a person exempt under KRS 198B.674 be required to possess or show proof of a heating, ventilation, or air conditioning license in order to obtain the permit required by this section.
- (2) The applicant for a heating, ventilation, and air conditioning permit, by the act of applying for the permit, shall be deemed to consent to inspection of the installation by authorized inspectors of the Commonwealth of Kentucky and of the relevant city, county, urban-county **government**, charter county, unified local government, or consolidated local government.
- (3) The permit shall **contain and display**~~give~~:
 - (a) The name of the person performing the work;
 - (b) The full extent of the work to be performed;
 - (c) The name of the owner or owners of the property where the work is to be performed;
 - (d) The location of the property where the work is to be performed, including county and street address; and
 - (e) The master license number, if the work is required to be performed by a master heating, ventilation, and air conditioning contractor.
- (4) No permit shall be required for any installation performed on a manufactured home as defined ~~in~~~~by~~ KRS 227.550~~(7)~~, by a manufactured home retailer licensed pursuant to KRS 227.610, or by a manufacturer as defined ~~in~~~~by~~ KRS 227.550~~(9)~~.
- (5) No permit or inspection shall be required for the installation of window unit air conditioners or space heaters.
- (6) No permit or inspection shall be required for the installation of a heating, ventilation, or air conditioning system, except in buildings designed for human occupancy.

➔Section 53. KRS 198B.6673 is amended to read as follows:

- (1) The ~~department~~~~board~~ shall promulgate administrative regulations to establish a reasonable schedule of fees to implement the program. The fees shall not exceed the actual costs for the administration of the program. The ~~department~~~~board~~ shall also establish heating, ventilation, and air conditioning inspection protocols that ensure timely inspections and minimal interruption to the construction process.
- (2) The department,~~with the approval of the board,~~ upon the request of any individual local governing entity or combination of entities with existing heating, ventilation, and air conditioning permitting and inspection programs as of January 1, 2007, shall authorize them to administer, carry out, and enforce the **administrative**~~rules and~~ regulations of the department relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of these functions. Nothing in KRS 198B.6671 to 198B.6678 shall prohibit these entities from continuing to include major repairs or substantial alterations to a heating, ventilation, or air conditioning system within their permitting and inspection program in the absence of a state requirement, if major repairs or substantial alterations were included in the entities' inspection program prior to January 1, 2007. The department~~, with the approval of the board,~~ may authorize any other individual local government entities or combination of entities to administer, carry out, and enforce the **administrative**~~rules and~~ regulations of the department relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of those functions. When authorization is granted, the department shall enter into contractual arrangements with the local governing entities, which shall remain in effect as long as the local entity continues to operate its program pursuant to guidelines adopted by the ~~department~~~~board~~. A heating, ventilation, and air conditioning permit issued by an authorized local governing entity shall be considered a permit issued by the department, and all fees collected by the authorized local government related to the same shall be retained by that local government.
- (3) Any local governing entity enforcing the permitting and inspection requirements of KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint and fix the compensation of the local

governing entity's heating, ventilation, and air conditioning inspectors. No person shall perform the duties of a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating, ventilation, and air conditioning journeyman mechanic or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment, the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with ~~the provisions of~~ KRS 198B.650 to 198B.689.

- (4) No local governing entity ~~shall may~~ impose any other additional heating, ventilation, and air conditioning inspection or permit requirements, or establish any local inspection or permitting program, unless those provisions were in place before January 1, 2007.

➔Section 54. KRS 198B.668 is amended to read as follows:

- (1) No person, firm, or corporation shall practice heating, ventilation, and air conditioning contracting unless that person, firm, or corporation maintains general liability insurance in an amount not less than five hundred thousand dollars (\$500,000) and property damage insurance in an amount not less than three hundred thousand dollars (\$300,000) underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance.
- (2) Proof of insurance shall be submitted to the ~~department~~**board** prior to issuance or renewal of a license.
- (3) Proof of insurance, as required by subsection (1) of this section, shall exempt licensees from the requirement of obtaining separate insurance in local jurisdictions under any local licensing laws.
- (4) No license shall be valid without ~~the insurance required by~~**insurance as provided in** this section. Insurance carriers shall notify the ~~department~~**board** upon cancellation of the insurance of any licensee required to maintain insurance.

➔Section 55. KRS 198B.670 is amended to read as follows:

No person shall advertise ~~as or claim to be~~**for hold himself out as** a master heating, ventilation, and air conditioning contractor, unless ~~that person~~**he** is licensed ~~as such~~ by the ~~department~~**board** according to ~~the provisions of~~ KRS 198B.650 to 198B.689. The license number shall appear in all advertising and on all vehicles used by the licensee for heating, ventilation, and air conditioning contracting work.

➔Section 56. KRS 198B.672 is amended to read as follows:

Subject to a hearing conducted in accordance with KRS Chapter 13B, the ~~department~~**board** may revoke, suspend, place on probation, or restrict the license or certificate of any licensee or certificate holder; refuse to issue or renew a license or certificate; or reprimand, censure, or fine a licensee or certificate holder for any of the following reasons:

- (1) Fraud or deceit in obtaining licensure or certification;
- (2) Transfer of the authority granted by the license or certificate to another person;
- (3) Unfair or deceptive trade practices;
- (4) Willful or deliberate disregard and violation of building codes, electrical codes, or related laws and ordinances of this Commonwealth or any city, county, or urban-county government;
- (5) Aiding or abetting any person attempting to evade the provisions of KRS 198B.650 to 198B.689;
- (6) Conspiracy or knowingly combining with any person, to allow a license or certificate to be used by an unlicensed or uncertified person, firm, or corporation with intent to evade the provisions of KRS 198B.650 to 198B.689. Allowing a license or certificate to be used by more than one (1) person shall be prima facie evidence of intent to evade the provisions of KRS 198B.650 to 198B.689;
- (7) Willful or deliberate disregard of disciplinary actions taken by the ~~department~~**board**, or of a city, county, or urban-county government;
- (8) Negligence or incompetence in compliance with applicable codes and standards of practice;
- (9) Violation of any of the provisions of KRS 198B.650 to 198B.689 or any administrative regulation promulgated by the ~~department~~**board**; or
- (10) Conviction of a felony or of any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States.

➔Section 57. KRS 198B.676 is amended to read as follows:

- (1) The ~~department~~~~board~~ shall establish by administrative regulation and collect the following fees, not to exceed the cost of the licensing program:
 - (a) Initial application fee for:
 1. Master heating, ventilation, and air conditioning contractor; and
 2. Journeyman heating, ventilation, and air conditioning mechanic.
 - (b) Examination fee for:
 1. Master heating, ventilation, and air conditioning contractor;
 2. Journeyman heating, ventilation, and air conditioning mechanic; and
 3. Apprentice heating, ventilation, and air conditioning mechanic.
 - (c) License renewal fee.
 - (d) Certificate renewal fee.
 - (e) Duplicate license or certificate fee.
 - (f) Inactive status fee.
 - (g) Restoration fee.
 - (h) Reactivation fee.
 - (i) Change of information fee.
- (2) All fees and charges collected by the ~~department~~~~board~~ under the provisions of this section shall be paid into a trust and agency account in the State Treasury. All expenses incurred by the ~~department~~~~board~~ under the provisions of KRS 198B.650 to 198B.689~~[, including compensation to the board members,]~~ shall be paid out of this account, subject to approval of the ~~department~~~~board~~.

➔Section 58. KRS 198B.678 is amended to read as follows:

- (1) No firm, company, or corporation may engage in the practice of heating, ventilation, and air conditioning contracting in any county of the Commonwealth, unless the person in responsible charge of the heating, ventilation, and air conditioning work is a master heating, ventilation, and air conditioning contractor and is an employee or subcontractor of the firm, company, or corporation.
- (2) Each master heating, ventilation, and air conditioning contractor who is employed by a firm, company, or corporation engaged in the practice of heating, ventilation, and air conditioning contracting shall notify the ~~department~~~~board~~ of that employment and upon termination of the employment.
- (3) No master heating, ventilation, and air conditioning contractor shall represent more than one (1) firm, company, or corporation.

➔Section 59. KRS 198B.680 is amended to read as follows:

- (1) ~~At~~~~With the exception of those persons appointed to the board pursuant to KRS 198B.652, no~~ person appointed or employed by the Commonwealth, a county, city, or other jurisdiction to administer, regulate, or inspect heating, ventilation, and air conditioning work shall **not** have any pecuniary interest in any heating, ventilation, and air conditioning business during the person's employment with the government or other jurisdiction.
- (2) Upon the holder's appointment or employment as an inspector, that person's license or certificate shall become inactive. Upon termination of the appointment or employment as an inspector, the person's license or certificate may be reactivated without examination, by written request to the ~~department~~~~board~~ and payment of a reactivation fee.

➔Section 60. KRS 198B.682 is amended to read as follows:

- (1) The revocation, suspension, restriction, lapse, or voluntary surrender of a license or certificate issued by the ~~department~~~~board~~ shall not deprive the ~~department~~~~board~~ of jurisdiction to investigate allegations of wrongdoing under KRS 198B.650 to 198B.689 or conduct disciplinary proceedings against a licensee or certificate holder.

- (2) The ~~department~~~~board~~ shall, within thirty (30) days of the action, notify all appropriate local building officials, permit offices, or other authorized persons of license and certificate revocations, suspensions, probations, restrictions, and restorations.

➔Section 61. KRS 198B.684 is amended to read as follows:

The ~~department~~~~board~~ may adopt by administrative regulation standards for continuing education for licensees and certificate holders.

➔Section 62. KRS 198B.686 is amended to read as follows:

- (1) Effective July 1, 1995, any person for whom licensure or certification is required who is not licensed or certified by the ~~department~~~~board~~ and practices heating, ventilation, and air conditioning contracting services shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.
- (2) Any person who advertises or otherwise holds himself out as being a licensed master or journeyman heating, ventilation, or air conditioning contractor and is not so licensed shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.

➔Section 63. KRS 219.410 is amended to read as follows:

- (1) Nothing in KRS 219.310 to 219.410 shall be construed to include manufactured homes, mobile homes, or recreational vehicles maintained by any persons on their own premises and used exclusively to house their own farm labor.
- (2)
 - (a) Nothing in KRS 219.310 to 219.410 shall be construed to apply to manufactured home parks, mobile home parks, or recreational vehicle parks owned and operated on a temporary or seasonal basis by a city, county, charter county, urban-county **government**, or consolidated local government or its agencies.
 - (b) Nothing in KRS 219.310 to 219.410 shall be construed to apply to festivals lasting not more than thirty (30) days that are organized and operated by a city, county, charter county, urban-county **government**, or consolidated local government or its agencies.
 - (c) Nothing in KRS 219.310 to 219.410 shall be construed to apply to the temporary parking of recreational vehicles on public or private property, for not more than thirty (30) days, associated with festivals, fairs, sporting events, yard sales, or other publicly announced events.
- (3) All installations of manufactured homes and mobile homes shall be performed by an installer certified under ~~the provisions of~~ KRS ~~227.550 to 227.660~~~~227.560~~ in accordance with the manufacturer's instructions, if available, or **the current ANSI or other generally accepted industry standard as adopted by the department by promulgation of an administrative regulation**~~225.1 Manufactured Home Installations~~.

➔Section 64. KRS 227.205 is amended to read as follows:

The Department of Housing, Buildings and Construction~~(hereinafter referred to as the department of housing)~~ is hereby created within the Public Protection Cabinet. The department shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040, and who shall report to the secretary of the Public Protection Cabinet. The office of the commissioner shall also include a deputy commissioner and an executive assistant to the commissioner, who shall be the policy making assistants to the commissioner and shall be appointed pursuant to KRS 12.050. The department shall consist of the Division of Fire Prevention, the Division of Building Codes Enforcement, the Division of Plumbing, the Electrical Division, and the Division of Heating, Ventilation, and Air Conditioning (HVAC).

➔Section 65. KRS 227.300 is amended to read as follows:

- (1) The commissioner shall promulgate reasonable ~~administrative rules and~~ regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. After promulgation of the Uniform State Building Code, no part of the standards of safety shall establish, in whole or in part, any building code other than the Uniform State Building Code, but the commissioner may supplement the Uniform State Building Code with fire safety regulations designed to operate in conjunction with the code.
- (2) In making such ~~administrative rules and~~ regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction,

installation, operation, storage, handling, maintenance, or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; maximum occupancy loads and other requirements for buildings of public assembly; flue and chimney construction; heating devices; boilers and pressure vessels; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair, and service shops; application of flammable finishes, acetylene, liquefied petroleum gas, and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibers; airports and airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

- (3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage, or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his or her designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13A.050 but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13A concerning comment on or protest of proposed regulations. All professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employees of the department for the purpose of drafting such standards.
- (4) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries which shall indicate the items inspectors from the Division of Fire Prevention will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate, or manage such centers or nurseries and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.
- (5) The commissioner shall issue supplemental regulations addressing the temporary change of use in buildings as authorized by KRS Chapter 198B. These regulations shall establish specific standards for such use and shall be designed to operate in conjunction with the Kentucky Building Code.
- (6) Any standards of safety or other regulations promulgated under this section shall be subject to the requirements of KRS 198B.030(8) ~~and (9) and 198B.040(11)~~.

➔Section 66. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

- (1) "Alteration" means any change, modification, or adjustment to an existing electrical system or conduit;
- (2) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- (3) **"Department" means the Department of Housing, Buildings and Construction;**
- (4) "Division" means the Electrical Division within the ~~department~~**Department of Housing, Buildings and Construction**;
- (5)~~(4)~~ "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical system used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician;
- (6)~~(5)~~ "Electrical system" means any electrical work subject to standards provided within the National Electrical Code as adopted in the Uniform State Building Code, as promulgated by the ~~department~~**Board of Housing, Buildings and Construction**;
- (7)~~(6)~~ "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical system used for the purpose of furnishing heat, light, or power;

- (8)(7) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;
- (9)(8) "Electrical inspector" means any person certified by the commissioner ~~of housing, buildings and construction~~ pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices, and fixtures for light, heat, or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky; **and**
- (10)(9) ~~"Department" means the Department of Housing, Buildings and Construction; and~~
- (10) "Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

➔Section 67. KRS 227.480 is amended to read as follows:

- (1) (a) A city, county, urban-county **government**, charter county, or consolidated local government or the state shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments or the state, require any person to obtain a permit before commencing construction, alteration, or repairs of any electrical system.
- (b) The city, county, urban-county **government**, charter county, or consolidated local government or the state shall require all inspections that are deemed necessary by the department for the safety of life and property. The department shall promulgate administrative regulations to describe the circumstances where inspections are required.
- (2) A city, county, urban-county **government**, charter county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf of a licensed electrical contractor. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical system on his or her own premises or any other person exempt from licensing under KRS 227A.030 or 227A.150. This subsection shall not apply to electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county **government**, charter county, or consolidated local government, or any subdivision thereof.
- (3) A city, county, urban-county **government**, charter county, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county, charter county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors ~~shall~~**must** be certified under KRS 227.489.
- (4) Reasonable standards for the construction, alteration, and repair of any electrical system shall be those adopted in the Uniform State Building Code, as promulgated by the ~~department~~**Board of Housing, Buildings and Construction**, and shall have as a minimum standard the requirements of the National Electrical Code. These standards shall be used by the electrical inspector in making his inspections.

➔Section 68. KRS 227.487 is amended to read as follows:

Except where other rules are adopted by a city or county, the following reporting and fee requirements shall apply to electrical inspections of residential buildings and single-family dwellings:

- (1) The inspector shall complete a report for each inspection. One (1) copy of the report shall be given to the owner of the electrical installation or his **or her** representative at the time the inspection fees are paid. A second copy of the report shall be sent to the department ~~of Housing, Buildings and Construction~~ no later than one (1) week after the inspection is completed. The report shall include, but is not limited to, the following:
 - (a) The address of the dwelling inspected;
 - (b) The number of rooms, number of receptacles and number of switch boxes inspected;
 - (c) Number of code violations, if any;
 - (d) A description of each code violation, and recommended change to correct the violation;
 - (e) The date and time of day the inspection commenced;
 - (f) The time, in hours and minutes, required for the inspection;

- (g) The number of miles and hours and minutes of travel time incurred by the inspector for that inspection, if mileage and travel charges are added to the inspection fee;
 - (h) The amount charged for the inspection, separated into an amount for mileage, if any, and the amount for travel time, if any, and the amount charged for the actual inspection.
- (2) The maximum inspection fee shall be an amount equal to the prevailing wage for a master electrician in the region in which the inspection is made, multiplied by the time required to conduct the inspection. This rate shall not be applied to travel time to and from the inspection.
 - (3) An inspector may charge, in addition to the inspection fee, an amount for necessary travel to and from the inspection site. The mileage rate charged shall not exceed the amount per mile allowed to state employees, and the inspector shall charge no more than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are made during one (1) trip, then the cost of travel shall be divided between the inspections made. In no case shall an inspector charge more than once for the same trip, or charge for mileage or time not actually expended.
 - (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety satisfactory to the department ~~of Housing, Buildings and Construction~~.
 - (5) The department ~~of Housing, Buildings and Construction~~ shall design reporting forms which meet the requirements of subsection (1) of this section, and provide these forms to electrical inspectors. The department shall *promulgate administrative*~~adopt~~ regulations to administer the requirements of this section.
 - (6) Nothing in this section is intended to limit the right of cities or counties to set fees or adopt rules for electrical inspections which are different from those specified in subsections (1), (2), (3) or (4) of this section.

➔Section 69. KRS 227.489 is amended to read as follows:

The commissioner ~~of housing, buildings and construction~~ shall require electrical inspectors to be certified. Examinations shall be based on the National Electrical Code incorporated in the Uniform State Building Code and the standards of safety prescribed by the department. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the National Electrical Code, for a period of three (3) years, may be certified on the basis of knowledge of this subject and experience. No certificate shall be denied, suspended, or revoked unless the applicant or certificate holder is afforded the opportunity for a hearing in accordance with KRS Chapter 13B.

➔Section 70. KRS 227.491 is amended to read as follows:

- (1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his or her signature and certification number in a conspicuous place on the main service entrance equipment. He or she shall also provide the owner of the electrical installation or his or her authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector, and these records shall be made available to the *department*~~Department of Housing, Buildings and Construction~~ upon its request.
- (2) An electrical inspector shall:
 - (a) Not attempt to supplant, overrule, or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure, or other project have been solicited by an owner, contractor, municipality, or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector;
 - (b) Not certify unlicensed or unlawful electrical installations;
 - (c) Not certify or inspect an electrical installation in a manufactured home or mobile home where the certified installer seal is not present pursuant to KRS 227.570;
 - (d) Not certify or inspect an electrical installation in a previously owned manufactured home or a previously owned mobile home when a Class B1 seal is not present as required by KRS 227.605; and
 - (e) Verify required electrical licensure on projects within the inspector's jurisdiction. The electrical inspector shall report all electrical licensure violations to the department within ten (10) days of discovery.
- (3) Failure of an electrical inspector to comply with any provision of this chapter or the administrative regulations promulgated thereunder shall subject that inspector to review by the commissioner ~~of housing, buildings and~~

~~construction~~ with possible suspension of certification for a period not to exceed one (1) year from the date of the commissioner's ruling.

➔Section 71. KRS 227.492 is amended to read as follows:

It shall be the duty of the commissioner~~[of housing, buildings and construction]~~ to investigate alleged misconduct of any electrical inspector certified under KRS 227.489 when, in the opinion of the commissioner, there is sufficient evidence to suggest that~~[such]~~ misconduct exists. Any party may seek redress from the commissioner when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

➔Section 72. KRS 227.550 is amended to read as follows:

As used in~~[this section to]~~ KRS 227.550 to 227.660, 227.990, and 227.992, unless the context requires a different definition:

- (1) ~~["Board" means the Manufactured Home Certification and Licensure Board.]~~
- ~~(2) —~~ "Seal" means the United States Department of Housing and Urban Development seal for manufactured homes;~~;~~
- ~~(2)(3)~~ "Class B1 Seal" and "Class B2 Seal" mean seals issued pursuant to subsection (1) of KRS 227.600;~~;~~
- ~~(3)(4)~~ "Retailer" means any person, firm, or corporation, who sells or offers for sale two (2) or more manufactured homes, mobile homes, or recreational vehicles in any consecutive twelve (12) month period. The term "retailer" shall not include:
 - (a) A manufacturer, as defined in this section;
 - (b) Any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to the disposition of its own repossessed manufactured housing; or
 - (c) A licensed real estate agent who acts as a negotiator between an owner and a prospective purchaser and does not acquire ownership or possession of manufactured homes for resale purposes;~~;~~
- ~~(4)(5)~~ "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a retailer, which shall include the books, records, files, and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a retailer may be performed. The place of business shall not consist of a residence, tent, temporary stand, or open lot. It shall display a suitable sign identifying the retailer and his business;~~;~~
- ~~(5)(6)~~ "Federal act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder;~~;~~
- ~~(6)(7)~~ "Manufactured home" means a single-family residential dwelling constructed in accordance with the federal act, manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings the construction of which is not preempted by the federal act are subject to building code requirements of KRS Chapter 198B;~~;~~
- ~~(7)(8)~~ "Factory-built housing" means manufactured homes, mobile homes, or mobile office units;~~;~~
- ~~(8)(9)~~ "Manufacturer" means any person who manufactures manufactured homes and sells to Kentucky retailers;~~;~~
- ~~(9)(10)~~ "Mobile home" means a factory-built structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act;~~;~~
- ~~(10)(11)~~ "Department" means the Department of Housing, Buildings, and Construction in the Public Protection Cabinet;~~;~~
- ~~(11)(12)~~ "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle not requiring a special permit for movement on Kentucky highways. The basic entities are: travel trailer, camping trailer, truck camper, motor home, and park vehicle;~~;~~

- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units, or fixtures) and bath and toilet rooms.
- (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
- (c) Truck campers: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.
- (d) Park vehicle: A vehicle which:
 - 1. Is built on a single chassis mounted on wheels;
 - 2. Is primarily designed as temporary living quarters for seasonal or destination camping and which may be connected to utilities necessary for operation of installed fixtures and appliances;
 - 3. Has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode; **and**
 - 4. Has a gross trailer area not less than two hundred forty (240) square feet and is certified by the manufacturer as complying with *the current ANSI standard or the generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation*~~[A119.5, Park Vehicles]~~.
- (e) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;~~[-]~~

~~(12)(13)~~ "Secretary" means the Secretary of the Federal Department of Housing and Urban Development; **and**~~[-]~~

~~(13)(14)~~ "ANSI" means the American National Standards Institute.

➔Section 73. KRS 227.555 is amended to read as follows:

- (1) Every manufactured or mobile home as defined in KRS 227.550 shall have:
 - (a) At least one (1) working smoke detector located inside the home near the bedroom areas on each floor level; and
 - (b) At least two (2) operable means of egress, if the home was originally equipped with at least two (2) means.
- (2) The department~~[of Housing, Buildings and Construction]~~, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, shall design and cause to be placed:
 - (a) At each vehicle entrance to a manufactured home park or community as defined in KRS 219.320, a notice stating the requirements set out in subsection (1) of this section, the penalty for noncompliance set out in subsection (5) of this section, and any other information it deems necessary to effect the purposes of this section; and
 - (b) In each county clerk's office, a notice stating the requirements set out in subsection (1) of this section, the penalty for noncompliance set out in subsection (5) of this section, and any other information it deems necessary to effect the purposes of this section.
- (3) No public servant with the authority to issue a citation shall enter a manufactured or mobile home solely for the purpose of determining whether or not the manufactured or mobile home is in compliance with this section.
- (4) No ordinance contrary to subsections (1) and (3) of this section may be enacted by any unit of local government, and the provisions of subsections (1) and (3) shall supersede any local ordinance to the contrary. The provisions of this subsection shall not apply to any city which has adopted or may in the future adopt the Uniform Residential Landlord and Tenant Act under KRS Chapter 383.

- (5) The owners of manufactured homes and mobile homes located within a manufactured home park or community which do not comply with subsection (1) of this section shall be responsible for the correction of any violation.
- (6) Any person who violates subsection (1) of this section shall be guilty of a violation.

➔Section 74. KRS 227.570 is amended to read as follows:

- (1) The department shall *promulgate administrative regulations in accordance with KRS Chapter 13A to:*
 - (a) *Establish a process for certifying installers, licensing retailers, and issuing certificates of acceptability to qualifying manufacturers pursuant to KRS 227.550 to 227.660;*
 - (b) *Establish and enforce* ~~[such]~~ standards and requirements for the installation of plumbing, heating, and electrical systems in manufactured homes and mobile homes and for previously owned recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public; ~~and~~ ~~[- These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board.]~~
 - (c) ~~[(2)]~~ *Establish and* ~~[The department shall]~~ enforce ~~[such]~~ standards and requirements for the body and frame design, construction, and installation of manufactured homes and mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. ~~[- These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.]~~
- (2) ~~[(3)]~~ All installations of manufactured homes and mobile homes shall be performed:
 - (a) By an installer certified *by the department; and* ~~[under the provisions of KRS 227.560]~~
 - (b) In accordance with the manufacturer's instructions, if available, or *the current ANSI standard or the generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation* ~~[- A225.1, Manufactured Home Installations].~~
- (3) ~~[(4)]~~ A certified installer shall apply for a certified installer seal prior to installing a manufactured home or a mobile home. The ~~department~~ ~~[board]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A *to establish a schedule of fees and the requirements for* ~~[- The administrative regulations shall provide for the fees,]~~ purchase and application of the seal, report procedures, and attachment of the certified installer seal.
- (4) ~~[(5)]~~ The installation of a new manufactured home shall be inspected under subsection (3) of this section. The retailer of the inspected property shall pay a new manufactured home installation inspection fee in an amount not to exceed one hundred fifty dollars (\$150).
- (5) ~~[(6)]~~ The ~~department~~ ~~[board]~~ shall specify the new manufactured home installation fee established in subsection (5) of this section through the promulgation of an administrative regulation. The ~~department~~ ~~[board]~~ may increase the fee, but by no more than ten percent (10%) per year, and at no time shall the fee exceed one hundred fifty dollars (\$150).
- (6) ~~[(7)]~~ All fees received by the department under this section shall be deposited in the trust and agency fund specified in KRS 227.620(5).

➔Section 75. KRS 227.580 is amended to read as follows:

- (1) It is unlawful for any manufacturer to manufacture, import, or sell manufactured homes within this state unless ~~that~~ ~~[such]~~ manufacturer has been issued a certificate of acceptability for such manufactured homes from the ~~department~~ ~~[board]~~ or its designee. This ~~subsection~~ ~~[provision]~~ shall not ~~[- however,]~~ apply to manufactured homes manufactured in this state and designated for delivery to and sale in another state.
- (2) The department shall require that the manufacturer establish and submit to the department for approval systems for quality control for recreational vehicles prior to the issuance of a certificate of acceptability. Certificates of acceptability shall be numbered and a record shall be kept by the department, by number, of the certificates issued to manufacturers.
- (3) ~~A~~ ~~[No]~~ manufacturer to which a certificate of acceptability has been issued shall *not* modify in any way its manufacturing specifications without prior written approval of the department.

➔Section 76. KRS 227.590 is amended to read as follows:

- (1) The *department, subject to any applicable requirements of KRS 198B.030(8),*~~[board]~~ shall *establish and*~~[make and the department shall]~~ enforce *administrative*~~[rules and]~~ regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out the department's responsibilities as a state administrative agency for the enforcement and administration of the federal act.
- (2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the *administrative*~~[rules and]~~ regulations authorized in subsection (5) of this section, the department shall mail to all manufacturers possessing valid certificates of acceptability and retailers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the *department*~~[board]~~ will consider any objections to the proposed changes and additions. After giving the notice required by this section, the *department*~~[board]~~ shall afford interested persons an opportunity to participate~~[in the rule making]~~ through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.
- (3) Every *administrative*~~[rule or]~~ regulation or modification, amendment, or repeal of *an administrative*~~[a rule or]~~ regulation *promulgated*~~[adopted]~~ by the *department*~~[board]~~ shall state the date it shall take effect.
- (4) Notwithstanding~~[the provisions of]~~ KRS 227.550 to 227.660, the *department*~~[board]~~ shall have the authority to promulgate *administrative*~~[rules and]~~ regulations exempting manufacturers and retailers from the provisions of KRS 227.550 to 227.660 when manufactured homes or mobile homes are brought into this state for exhibition only.
- (5) All *administrative*~~[rules,]~~ regulations, *including* codes, fees, and charges, *promulgated or* adopted by the *department*~~[board]~~ pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.
- (6) The *department*~~[board]~~ shall have the authority to promulgate *administrative*~~[rules and]~~ regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state retailers for the purpose of participating in manufactured home shows in the Commonwealth of Kentucky.

➔Section 77. KRS 227.600 is amended to read as follows:

- (1) Any retailer who has acquired a previously owned manufactured home, mobile home, or recreational vehicle without a seal shall apply to the department for the appropriate seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the *department*~~[board]~~ for previously owned manufactured homes, mobile homes, or recreational vehicles. Those manufactured homes or mobile homes taken in trade *shall*~~[must]~~ be reinspected and certified. A numbered Class B1 Seal shall be affixed by the retailer to the unit prior to sale. A seal *shall*~~[will]~~ not be required if *the*~~[such]~~ retailer submits an affidavit that the unit will not be resold for use~~[as such]~~ by the public. A retailer shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a Class B1 Seal.
- (2) The owner of any manufactured home or mobile home *that*~~[which]~~ is not covered by the federal act,~~[and which]~~ was purchased in another state, and *does not bear*~~[not bearing]~~ a seal of approval shall purchase a seal from the department. Application to purchase a seal of approval shall be made to the department.
- (3) The department shall make available suitable forms for application for seals of approval for previously owned manufactured homes or mobile homes which are not covered by the federal act and for previously owned recreational vehicles.
- (4) The clerk of the county in which a manufactured home, mobile home, or previously owned recreational vehicle is sought to be registered~~[after June 1, 1976]~~, which was purchased out of Kentucky, shall require production of proof of purchase of a seal of approval as provided in subsection (2) of this section before registering or issuing a license for any manufactured home, mobile home, or previously owned recreational vehicle.

➔Section 78. KRS 227.605 is amended to read as follows:

- (1) No person shall transport into the Commonwealth of Kentucky any previously owned manufactured or mobile home for the purpose of resale or use as a dwelling in the Commonwealth of Kentucky, unless the previously owned manufactured or mobile home has a B1 Seal attached to it prior to resale or use as a dwelling. The application and certification procedures for the attachment of the B1 Seal prior to the resale or occupancy of the manufactured or mobile home shall be *established by the department*~~[set out by the board]~~ through the promulgation of administrative regulations in accordance with~~[the provisions of]~~ KRS Chapter 13A. Nothing in this section shall require a person who owns a manufactured or mobile home in another state and who

transports that manufactured or mobile home into the Commonwealth of Kentucky to use as that person's dwelling to obtain a Class B seal.

- (2) Except for manufactured or mobile homes installed within the Commonwealth of Kentucky before July 13, 2004, no person shall sell, lease, rent, or furnish for use as a dwelling in the Commonwealth of Kentucky any previously owned manufactured or mobile home that does not bear a B1 Seal and which is not installed in compliance with the manufacturer's instructions, if available, or ***the current ANSI standard or the generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation***~~[225.1, Manufactured Home Installations]~~.

➔Section 79. KRS 227.610 is amended to read as follows:

The ~~department~~~~[board]~~ or its designee shall license retailers under~~[the provisions of]~~ KRS 227.550 to 227.660. The issuance of a license shall be contingent upon the applicant's chief managing officer passing a test administered by the department. Before issuing a license, the department shall require proof of liability insurance which shall name the department in the certificate of insurance, and the license shall be null and void if there is a lapse of coverage in insurance.

➔Section 80. KRS 227.620 is amended to read as follows:

- (1) A~~[No]~~ retailer shall ***not*** engage in business~~[as such]~~ in this state without a license ***issued by the department pursuant to***~~[therefor as provided in]~~ KRS 227.550 to 227.660.
- (2) Application for license shall be made to the ~~department~~~~[board]~~ or its designee at such time, in such form and contain such information as the ~~department~~~~[board]~~ shall require and shall be accompanied by the required fee. The ~~department~~~~[board]~~ may require in ~~the~~~~[such]~~ application, or otherwise, ***any***~~[such]~~ information~~[as]~~ it deems ***essential to***~~[commensurate with the]~~ safeguarding~~[of]~~ the public interest in the locality in which ~~the~~~~[said]~~ applicant proposes to engage in business, all of which may be considered by the ~~department~~~~[board]~~ in determining the fitness of ~~the~~~~[said]~~ applicant to engage in business as set forth in KRS 227.550 to 227.660.
- (3) All licenses shall be granted or refused within thirty (30) days after ***the application is received***. The initial license for a retailer shall expire on the last day of the licensee's birth month in the following year. The ~~department~~~~[board]~~ may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license.
- (4) The license fee for ~~a~~~~[such]~~ calendar year or part thereof shall be established by the ~~department~~~~[board]~~, subject to the following maximums:
 - (a) For manufacturers, a "certificate of acceptability" shall be subject to a maximum of five hundred dollars (\$500).
 - (b) For retailers, the maximum license fee shall be two hundred fifty dollars (\$250) for each established place of business.
 - (c) The fee for a "Class B Seal" for recreational vehicles shall be twenty-five dollars (\$25) per seal and the application form and seal shall be made available from the department.
 - (d) The fee for a "Class B1 Seal" and "Class B2 Seal" for manufactured and mobile homes shall be established by the ~~department~~~~[board]~~ subject to a maximum of twenty-five dollars (\$25) per seal.
 - (e) The department may establish a monitoring inspection fee in an amount established by the secretary. This monitoring inspection fee shall be an amount paid by each manufactured home manufacturer in this state for each manufactured home produced by the manufacturer in this state. The monitoring inspection fee shall be paid by the manufacturer to the secretary or the secretary's agent, who shall distribute the fees collected from all manufactured home manufacturers among the states approved and conditionally approved by the secretary based on the number of new manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, retailer, or purchaser in that state, and the extent of participation of the state in the joint team monitoring program established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.
- (5) All revenues raised ***under subsection***~~[through the provisions of subsections]~~ (4)(a), (b), and (c) ***of this section***, and funds paid to the state by the secretary under~~[the provisions of]~~ subsection (4)(d) of this section shall be deposited in a trust and agency fund and shall be used solely for the purpose of carrying out~~[the provisions of]~~ KRS 227.550 to 227.660 and other departmental responsibilities. No amount of ~~the~~~~[such]~~ trust and agency fund shall lapse at the end of any fiscal year.

- (6) The licenses of retailers shall specify the location of the established place of business and ~~shall~~**must** be conspicuously displayed there. ~~If the location denoted on the license changes~~**In case such location be changed**, the retailer shall notify the department of ~~the change~~**any change of location**, and the department shall ~~update~~**endorse** the change of location on the license without charge if it be within the same municipality. A change of location to another municipality or to a county which is not adjacent to the county where the business is located shall require a new license.
- (7) Every retailer licensed in accordance with ~~the provisions of~~ this section shall make reports to the department at **times specified by the department and containing any**~~such intervals and showing such~~ information~~as~~ the department may require.
- (8) Each manufacturer, distributor of manufactured homes or mobile homes, and retailer of manufactured or mobile homes shall establish and maintain~~such~~ records, make~~such~~ reports, and provide **any**~~such~~ information~~as~~ the department or the secretary may reasonably require to~~be able to~~ determine whether ~~the~~**such** manufacturer, distributor, or retailer has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act. **A manufacturer, distributor of manufactured homes or mobile homes, and retailer of manufactured or mobile homes**~~and~~ shall, upon request of a person duly designated by the department or secretary, permit ~~that~~**such** person to inspect appropriate books, papers, records, and documents relevant to determining whether ~~the~~**such** manufacturer, distributor, or retailer has acted or is acting in compliance with KRS 227.550 to 227.660 or the federal act.

➔Section 81. KRS 227.625 is amended to read as follows:

- (1) Before any license ~~is~~**will be** issued or renewed, the applicant shall file or have on file with the department a liability insurance policy issued by an insurance carrier authorized to transact insurance business within the Commonwealth of Kentucky. The policy of insurance ~~shall~~**must** be issued in the name of the applicant licensee.
- (2) The ~~department~~**board** shall by **administrative** regulation establish the minimum amount of liability insurance **coverage** required **under this section**~~herein~~.
- (3) ~~An~~**No** insurance carrier issuing any policy filed with the department shall **not** be relieved from liability under the policy until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, provided, however, that a prior cancellation may be allowed in cases where one (1) policy is substituted for another policy when the substituted policy is in force and effect prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy which is being substituted.
- (4) Upon cancellation of any policy of insurance required by this section, all operating rights granted by the license for which the ~~said~~ policy was filed~~,~~ shall immediately cease, and the department shall have the authority to immediately require the cessation of all operations conducted under the authority of ~~that~~**the said** license and to require the surrender of all licenses, certificates, and seals previously issued hereunder.

➔Section 82. KRS 227.630 is amended to read as follows:

- (1) A license, certification, or certificate of acceptability may be denied, suspended, or revoked on the following grounds:
 - (a) A showing of insolvency in a court of competent jurisdiction;
 - (b) Material misstatement in application for license, certification, or certificate of acceptability;
 - (c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or any **administrative**~~rule or~~ regulation promulgated by the ~~department~~**board** under KRS 227.550 to 227.660;
 - (d) Willfully defrauding any buyer;
 - (e) Willful failure to perform any written agreement with any buyer or retailer;
 - (f) Failure to have or to maintain an established place of business;
 - (g) Failure to furnish or maintain the required insurance;
 - (h) Making a fraudulent sale, transaction, or repossession;
 - (i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

- (j) Failure by a retailer to put the title to a manufactured home, mobile home, or recreational vehicle in his name after said retailer has acquired ownership of the manufactured home, mobile home, or recreational vehicle by trade or otherwise;
 - (k) Violation of any law relating to the sale or financing of manufactured homes, mobile homes, or recreational vehicles.
- (2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license ~~if that~~ any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to ~~that such~~ party as an individual. Each licensee shall be responsible for any or all of his or her salespersons while *they are* acting as *agents of the licensee and* ~~this agent while the said agent is acting~~ within the scope of *their* ~~his~~ authority.
- (3) Upon proceedings for the suspension of a license, certification, or certificate of acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the ~~department~~~~board~~, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day. Payments in lieu of suspension collected by the ~~department~~~~board~~ shall be deposited in the State Treasury and credited to the general expenditure fund.

➔Section 83. KRS 227.640 is amended to read as follows:

- (1) The ~~department~~~~board~~ or its designee may deny the application for a license, certification, or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for ~~the~~~~such~~ denial.
- (2) No license, certification, or certificate of acceptability shall be suspended or revoked by the ~~department~~~~board~~ unless the licensee or certificate holder is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.
- (3) Any manufacturer, certified installer, or licensed retailer who violates or fails to comply with KRS 227.550 to 227.660 or any administrative regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation, if it is correctable, within twenty (20) days. ~~If~~~~should~~ the manufacturer, certified installer, or retailer ~~fails~~~~fail~~ to make the necessary corrections within the specified time or if the violation is not correctable, the ~~department~~~~board~~ may, after notice and hearing in accordance with KRS Chapter 13B, suspend or revoke any certificate of acceptability, certification, or license if it finds that:
 - (a) The manufacturer, certified installer, or retailer has failed to pay the fees authorized by KRS 227.550 to 227.660; ~~or that~~
 - (b) The manufacturer, certified installer, or retailer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any administrative regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; ~~or that~~
 - (c) The manufacturer has shipped or imported into this state a manufactured home or mobile home to any person other than to a duly licensed retailer.
- (4) The ~~department shall establish~~~~board shall set out~~, through the promulgation of administrative regulations in accordance with ~~the provisions of~~ KRS Chapter 13A, ~~and shall provide for~~ a dispute resolution process which may be used prior to a formal hearing under KRS Chapter 13B. The dispute resolution process shall be nonbinding on the licensee, certified installer, or manufacturer and shall be conducted after application for a KRS Chapter 13B hearing, but prior to the convening of the KRS Chapter 13B hearing.
- (5)~~(4)~~ Any person aggrieved by any final order of the department may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 84. KRS 227.650 is amended to read as follows:

- (1) The department is empowered to inspect all mobile homes which are not covered by the federal act and previously owned recreational vehicles for which it has issued a seal of approval.
- (2) The ~~department~~~~board~~ may establish and require ~~such~~ training programs in the concept, techniques, and inspection of manufactured homes, mobile homes, and previously owned recreational vehicles for the personnel of local governments, as the ~~department~~~~board~~ considers necessary.

- (3) The staff of the department, upon showing proper credentials and in the discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, ***shall be permitted***~~is authorized~~ with the consent of the manufacturer or by proper warrant to enter and inspect all factories, warehouses, or establishments in this state in which manufactured homes are manufactured or stored.

➔Section 85. KRS 227.660 is amended to read as follows:

~~{The department, }~~Subject to ***KRS Chapters***~~{the provisions of Chapter}~~ 18A and~~{ Chapter}~~ 64~~{ of the Kentucky Revised Statutes}~~, ***the department*** may set qualifications ***for***, employ, and fix the compensation of~~{ such }~~ state inspectors as the department deems necessary to carry out the functions of KRS 227.550 to 227.650. To carry out~~{ the provisions of }~~ KRS 227.550 to 227.650, the department may authorize the state inspectors to travel within or ***outside***~~{without}~~ the state for the purposes of inspecting the manufacturing facilities for manufactured homes or for any other purpose in connection with KRS 227.550 to 227.650.

➔Section 86. KRS 227.992 is amended to read as follows:

Any person who willfully manufactures a manufactured home, sells, or offers for sale a manufactured home, mobile home, or recreational vehicle in this state in violation of~~{ the provisions of }~~ KRS ~~227.550~~~~{227.560}~~ to 227.660 shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by confinement in the county jail for a period of not more than thirty (30) days, or both.

➔Section 87. KRS 227A.010 is amended to read as follows:

As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:

- (1) "Authorized local licensing program" means any city, county, urban-county ***government***, charter county, or consolidated local government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;
- (2) ~~{ "Committee" means the Electrical Advisory Committee as described in KRS 227.530;~~
- ~~(3) —~~ "Department" means the Department of Housing, Buildings and Construction;
- (3)(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;
- ~~(4){(5)}~~ "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical system used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician; however, no master electrician shall act in this capacity for more than one (1) electrical contractor;
- (5)(6) "Electrical system" means any electrical work subject to standards provided within the National Electrical Code as adopted in the Uniform State Building Code, as promulgated by the ***department***~~{Board of Housing, Buildings and Construction}~~;
- ~~(6){(7)}~~ "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical system used for the purpose of furnishing heat, light, or power;
- ~~(7){(8)}~~ "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;
- ~~(8){(9)}~~ "Master electrician" means any individual licensed to engage in, and assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of any electrical system used to furnish heat, light, or power;
- ~~(9){(10)}~~ "Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance; and
- ~~(10){(11)}~~ "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the

removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems.

➔Section 88. KRS 227A.040 is amended to read as follows:

- (1) The department, ~~[with assistance from the Electrical Advisory committee,]~~ shall administer and enforce ~~[the provisions of]~~ KRS 227A.010 to 227A.140 and shall evaluate the qualifications of applicants for licensure.
- (2) The department may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating ~~[the provisions of]~~ KRS 227A.010 to 227A.140 or the administrative regulations promulgated under KRS 227A.010 to 227A.140 and KRS Chapter 13A.
- (3) The department shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the functions of KRS 227A.010 to 227A.140.
- (4) The department, ~~[with assistance from the Electrical Advisory committee,]~~ shall evaluate the qualifications of applicants and issue licenses to qualified candidates.
- (5) The department shall renew licenses.
- (6) The department may:
 - (a) Refuse to issue or renew a license;
 - (b) Suspend or revoke a license;
 - (c) Impose supervisory or probationary conditions upon a licensee;
 - (d) Impose administrative disciplinary fines;
 - (e) Issue written reprimands or admonishments; and
 - (f) Take any combination of the actions permitted in this subsection.
- (7) The department may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in KRS 227A.010 to 227A.140 and administrative regulations promulgated thereunder. The department may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."
- (8) The department, with comments ~~[and advice]~~ from the **Housing, Buildings and Construction** ~~[Electrical]~~ Advisory Committee if required by KRS 198B.030(8) ~~[and (9)]~~, may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.
- (9) The department may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

➔Section 89. KRS 227A.090 is amended to read as follows:

- (1) The department ~~[with advice from the Electrical Advisory committee,]~~ shall select and approve an examination to be used in determining the competency of persons to be licensed under KRS 227A.010 to 227A.140. Examinations selected and approved for each level of licensing shall be nationally recognized examinations which have been determined through proper validation techniques to measure successfully an individual's competency to perform the licensed practice.
- (2) The department shall offer the examinations on a regularly scheduled basis in localities **around the state** ~~[determined by the committee]~~. The department shall offer the examinations through any authorized local licensing program.
- (3) The department may contract with an outside entity or testing service for the administration of examinations required for licensure.

➔Section 90. KRS 236.010 is amended to read as follows:

As used in this chapter:

- (1) "Boiler" or "boilers" means and includes a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use externally to itself, by the direct application of energy from the combustion

of fuels, or from electricity, solar or nuclear energy. The term "boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves:

- (a) "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) pounds per square inch gauge;
 - (b) "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding one hundred sixty (160) pounds per square inch gauge or temperatures exceeding two hundred fifty (250) degrees Fahrenheit;
 - (c) "Heating boiler" means a steam or vapor boiler operating at pressures not exceeding fifteen (15) pounds per square inch gauge or a hot water boiler operating at pressures not exceeding one hundred sixty (160) pounds per square inch gauge or temperatures not exceeding two hundred fifty (250) degrees Fahrenheit; and
 - (d) "Portable boiler" means a boiler which is primarily intended for a temporary location, construction and usage of which allows the boiler to be readily removed from one (1) location to another;
- (2) "Pressure vessel" means a vessel in which the pressure is obtained from an external source or by the application of heat other than those vessels defined in subsection (1) of this section;
 - (3) "Commissioner" means the commissioner of *Department of Housing, Buildings and Construction*~~[housing, buildings and construction]~~;
 - (4) "Department" means the Department of Housing, Buildings and Construction;
 - (5) "ASME" means American Society of Mechanical Engineers;
 - (6) *"Committee" means the Housing, Buildings and Construction Advisory Committee created by Section 1 of this Act*~~["Board" means Board of Boiler and Pressure Vessel Rules]~~;
 - (7) "Certificate inspection" means an inspection, the report of which is used by the chief boiler inspector to determine whether or not a certificate, as provided by subsection (1) of KRS 236.120, may be issued;
 - (8) *"Administrative [Rule" or "regulation" means an administrative*~~[a general]~~ regulation adopted by the ~~department~~~~[commissioner upon advisement of the board]~~ and filed and approved in accordance with KRS Chapter 13A *that is designed to ensure*~~[insure]~~ the safety of boilers and pressure vessels that affects or may affect property rights of a designated class of owners, or designed for the prevention of loss or damage to property, loss of life, or personal injury from boiler or pressure vessel explosion or from certain indicated hazards related thereto;
 - (9) "Order" or "emergency order" means an order of the department, chief boiler inspector, or boiler inspector issued in accordance with this chapter for the prevention of:
 - (a) Loss or damage to property;
 - (b) Loss of life from boiler or pressure vessel malfunction or explosion; or
 - (c) Personal injury from boiler or pressure vessel malfunction or explosion;
 - (10) "Division" means the Division of Plumbing in the department;
 - (11) "Qualified welder" means a welder or welding machine operator who has successfully passed the tests required by the appropriate ASME boiler, pressure vessel, or piping code;
 - (12) "Person" or "firm" means any individual, firm, partnership, or corporation;
 - (13) "Chief boiler inspector" means the person employed by the department who shall serve as the boiler section supervisor within the Division of Plumbing;
 - (14) "Boiler inspector" means a duly authorized employee of the department~~[of Housing, Buildings and Construction]~~ who is charged with the responsibility of inspecting boilers and pressure vessels and with the enforcement of the state boiler laws;
 - (15) "Special boiler inspector" means any person employed by an insurance company authorized to insure boilers and pressure vessels in the Commonwealth and who holds a commission as provided in KRS 236.080. This term shall apply to both in-service inspectors and authorized inspectors of repairs, alterations, and shop work;
 - (16) "Domestic water" means potable water delivered by a piping system for personal use or consumption;

- (17) "Potable water" means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Division of Water or the administrative regulations of the department ~~of Housing, Buildings and Construction~~;
- (18) "Cryogenic service" means a fluid held under pressure and having a boiling point below one hundred degrees below zero (-100) Fahrenheit at one (1) atmospheric pressure, which upon release results in auto-refrigeration or cooling effect;
- (19) "Oil refinery" means a facility used primarily for the refinement of petroleum products;
- (20) "Qualified welding procedure" means a welding procedure that has passed tests required by the applicable ASME boiler, pressure vessel, or piping code;
- (21) "Boiler external piping" means boiler piping as defined *by*~~in~~ ASME ~~Section I, which shall conform to ASME B31.1 and ASME Section II~~;
- (22) "Non-boiler external piping" means boiler piping and boiler proper connections as defined in ASME Section I and applicable figures, and shall conform to either ASME B31.1 or ASME B31.3, including steam, boiler feedwater, blowdown, vents and drains, and chemical injection piping outside the boiler boundary;
- (23) "MAWP" means the maximum allowable working pressure for a boiler, pressure vessel, or piping system;
- (24) "Owner facility" means any facility licensed pursuant to KRS 236.097(1);
- (25) "Owner's piping inspector" means any person licensed pursuant to KRS 236.097(2);
- (26) "Independent inspection agency" means a person or company licensed under KRS 236.097(3) who is retained by an owner facility to conduct inspections under KRS 236.097(1); and
- (27) "Owner-user facility" means any facility that operates pressure vessels and is accredited as an owner-user inspection organization by the national board.

➔Section 91. KRS 236.030 is amended to read as follows:

- (1) After reasonable notice and opportunity to be heard in accordance with KRS Chapter 13A, the commissioner ~~of housing, buildings and construction~~, upon advisement and subject to comment by the *committee*~~board~~ under the requirements of KRS 198B.030(8) ~~and (9) and 198B.040(11)~~, shall, by administrative regulation, fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state. ~~Such~~ Administrative regulations shall be enforced by the Department of Housing, Buildings and Construction, Division of Plumbing.
- (2) The department may adopt any other administrative regulation necessary to administer this chapter if the regulation has been subject to review and comment by the *committee*~~board~~ under the requirements of KRS 198B.030(8) ~~and (9) and 198B.040(11)~~. ~~No administrative regulations so approved by the board shall become effective except upon adoption by the department, in conformance with KRS Chapter 13A.~~
- ~~(3) The department shall furnish to the board proposed amendments to administrative regulations for the board's review and comment prior to their adoption by the department. The department shall not promulgate any administrative regulations related to this chapter without granting the board the opportunity to comment on the administrative regulation.~~

➔Section 92. KRS 236.070 is amended to read as follows:

The department shall employ boiler inspectors who ~~shall~~ have ~~had~~ at the time of appointment not less than five (5) years *of* practical experience in the construction, maintenance, repair, or operation of high pressure boilers and pressure vessels as a mechanical engineer, practical steam operating engineer, boilermaker, pressure vessel inspector or boiler inspector, and who shall have passed the examination *required by*~~provided for in~~ KRS 236.090.

➔Section 93. KRS 236.095 is amended to read as follows:

- (1) In addition to boiler inspectors authorized by KRS 236.070, the department shall issue an owner-user inspector commission to any inspector commissioned by a company operating a pressure vessel within the Commonwealth *if* ~~provided that~~:
 - (a) The company has an established and regular inspection program;

- (b) The company is listed as an accredited Owner-User Inspection Organization in compliance with the National Board of Boiler and Pressure Vessel Inspectors Accreditation of Owner-User Inspection Organizations;
- (c) The inspection program, personnel, equipment, and supervision meet the requirements established by the department~~[after recommendation by the board]~~; and
- (d)
 - 1. The owner-user inspector applicant has successfully passed the examination *required by*~~[provided for in]~~ KRS 236.090; or
 - 2. The owner-user inspector applicant holds a commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors.
- (2) A commission as an owner-user inspector shall be issued only if, in addition to meeting the requirements of this section, the inspector is continuously employed by the company for the purpose of making inspections of pressure vessels used or to be used by the company, not of pressure vessels to be resold.
- (3) A licensed owner-user inspector *may not*~~[is not authorized to]~~ inspect boilers within the Commonwealth.
- (4) A licensed owner-user inspector may inspect *only*~~[all]~~ pressure vessels insured by the inspector's employing company. When the vessels are inspected and reported as required, the owners and users of insured pressure vessels shall be exempt from payment to the state of inspection fees as provided in KRS 236.130.
- (5) Each company employing a licensed owner-user inspector shall, within thirty (30) days following each certificate of inspection, file a report of inspection with the department. Reports *shall*~~[are to]~~ be submitted upon forms prescribed by the department.
- (6) No reporting of inspections other than the certificate of inspection reports shall be required unless an inspection reveals that the pressure vessel is in a dangerous condition.
- (7) A licensed owner-user inspector shall receive no salary from, nor shall any expenses be paid by, the Commonwealth.
- (8) Continuance of an owner-user inspector's commission shall be conditioned upon the inspector continuing employment for an owner-user company meeting requirements of subsection (1) of this section.

➔Section 94. KRS 236.110 is amended to read as follows:

- (1) Each boiler or pressure vessel used or proposed to be used within this state, except boilers or pressure vessels exempt under KRS 236.060, shall be thoroughly inspected as to their construction, installation, and condition as follows:
 - (a) Power boilers shall receive a certificate of inspection annually which shall be an internal inspection where construction permits; otherwise it shall be as complete an inspection as possible. Such boilers shall also be externally inspected while under pressure if possible.
 - (b) Low pressure steam or vapor heating boilers, hot water heating boilers, and hot water supply boilers shall receive a certificate of inspection biennially; said inspection shall include internal inspection where construction permits. External inspections *shall be*~~[are]~~ required where construction does not permit internal inspection.
 - (c) Pressure vessels shall be inspected at time of installation to ascertain that they are in conformance with KRS 236.040. Subsequent reinspections, if any, shall be set by *administrative* regulation of the department.
 - (d) A grace period of two (2) months beyond the periods specified in paragraphs (a), (b), and (c) of this subsection may elapse between inspections.
 - (e) The department may at its discretion permit longer periods between inspections.
 - (f) All new boiler or pressure vessel installations to be used within this state, excepting boilers or pressure vessels exempted under KRS 236.060, shall be inspected during the installation period to ascertain that all pressure piping conforms to the requirements of KRS 236.040. A certificate of inspection may not be issued on any new installation until these requirements are fulfilled.
 - (g) It shall be the responsibility of the installing contractor to request the above inspection by notifying the boiler inspection section that the installation is ready for~~[such]~~ inspection. Notification *shall*~~[must]~~ be accomplished prior to covering of any welded or mechanical joints on pressure piping or valves by

insulation, paint, or structural materials. The contractor shall provide ready access for the inspector to all parts of the piping system.

- (h) Inspection of pressure piping ~~shall apply~~^{applies} only to new boiler, pressure vessel, or new pressure piping system installations, or reinstallations, or installation of secondhand boilers (as defined under "Boiler Rules and Regulations"). No annual or biennial reinspection ~~shall be~~^{is} required once the system has been approved.
- (i) "Existing installations," as applied to inspection of piping systems is defined as any boiler and piping system completed and approved for operation prior to July 1, 1970, or pressure vessels and associated piping systems completed and approved for operation prior to July 15, 1980. ~~These~~^{Such} existing installations ~~shall~~^{will} not be subject to the foregoing piping inspection unless adjudged patently unsafe for operation by a boiler inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors, or by an owner's piping inspector, when authorized. If an existing installation is so adjudged, the owner or user ~~shall~~^{will} be granted full rights of appeal as set forth under KRS 236.150.
- (j) ~~If~~^{At such time as} an existing installation undergoes extensive overhaul or more than fifty (50) linear feet of pressure piping requires renewal or is added to the existing system, the entire system of piping carrying pressure emanating from the boilers shall be subject to inspection and ~~shall~~^{will} be brought up to standards required by KRS 236.040.
- (k) The installing contractor of a piping system carrying pressure emanating from a boiler or pressure vessel subject to inspection under provisions of this chapter, shall pay to the department, upon completion of inspection, fees in accordance with a schedule *established by the department*~~set up by the board and approved by the commissioner~~.
- (l) Operation of a pressure piping system in conjunction with a boiler or pressure vessel, either of which has not been inspected and approved as set forth above, shall be subject to fines and penalties as set forth in KRS 236.990.
- (m) For any boiler or pressure vessel used by a utility to generate power, and operating under a certificate issued pursuant to KRS 278.020, if the boiler or pressure vessel is inspected by a special boiler inspector pursuant to this section, the inspection interval shall be extended to eighteen (18) months.
- (2) The inspections required in this section shall be made by a boiler inspector or by a special boiler inspector, except that all new installations shall be inspected by a boiler inspector employed by the department. However, an owner's piping inspector may inspect new, repaired, and replaced ASME *standard*~~B31.3~~ process piping.
- (3) If at any time a hydrostatic, pneumatic, or any other nondestructive test shall be deemed necessary for ascertaining acceptability of a boiler, pressure vessel, or associated piping, the same shall be made by the contractor or owner-user, whoever is responsible for the condition, and be witnessed by a boiler inspector, special boiler inspector, or owner's piping inspector in authorized locations.
- (4) All boilers to be installed in this state after July 1, 1970, and all pressure vessels installed in this state after July 15, 1980, shall be inspected during construction as required by the applicable rules and regulations of the department by a boiler inspector authorized to inspect boilers and pressure vessels in this state, or, if constructed outside of the state, by an inspector holding a commission from the national board as an inspector of boilers and pressure vessels.
- (5) No person shall willfully falsify any statement designed to secure the issuance, renewal or reinstatement of a certificate of inspection. Violation of this subsection shall subject such a person to the penalties stated in KRS 236.990.

➔Section 95. KRS 236.120 is amended to read as follows:

- (1) If, upon inspection, a boiler or pressure vessel is found to comply with the administrative regulations of the department, the owner, user, or insurance company of it shall pay to the department the sum of fifteen dollars (\$15). When the inspection is made by a special inspector, the inspector shall attach the certificate fee to his or her report. The chief boiler inspector, or his or her duly authorized representative, shall issue to the owner or user a certificate of inspection for the boiler or pressure vessel bearing the date of inspection and specifying the maximum pressure under which the boiler or pressure vessel may be operated. An inspection certificate shall be valid for not more than fourteen (14) months from its date in the case of power boilers, and twenty-six (26) months in the case of low pressure steam or vapor heating boilers, hot water heating boilers, or hot water supply boilers. The most recently issued certificate of inspection shall be posted in the room containing the

boiler inspected or, in the case of a portable boiler, shall be kept in a tool box accompanying the boiler. The most recently issued certificate of inspection for each pressure vessel shall be kept in the owner's files.

- (2) No certificate of inspection issued for an insured boiler, inspected by a special inspector, shall be valid after the insurance on the boiler for which it was issued terminates. Boilers shall be insured by a company duly authorized by this state to carry the insurance.
- (3) The commissioner or his or her authorized representative may at any time suspend a certificate of inspection if, in his or her opinion, the boiler or pressure vessel for which it was issued cannot be operated without menace to the public safety, or if the boiler or pressure vessel is found not in compliance with this chapter or the administrative regulations of the department. A special boiler inspector shall have corresponding powers with respect to suspending certificates of inspection for boilers or pressure vessels insured by the company employing him or her. The suspension of a certificate of inspection shall continue in effect until the boiler or pressure vessel conforms to this chapter and administrative regulations of the ~~department~~~~board~~, and until the inspection certificate is reinstated.
- (4) A suspended certificate of inspection shall be reissued on the recommendation of the boiler inspector or special boiler inspector who first caused the suspension or at the discretion of the chief boiler inspector.

➔Section 96. KRS 236.130 is amended to read as follows:

- (1) The owner or user of a boiler or pressure vessel required by this chapter to be inspected shall pay to the department, upon completion of inspection, reasonable fees not to exceed the cost of inspection as established by the commissioner *in an administrative regulation promulgated in accordance with*~~upon advice of the board pursuant to~~ KRS Chapter 13A.
- (2) All other inspections, including shop inspections and inspection of secondhand or used boilers made by the boiler inspector shall be charged for at the rate set by *administrative* regulation promulgated by the commissioner *in accordance with*~~upon advice of the board pursuant to~~ KRS Chapter 13A.
- (3) All fees received by the department shall be held in a trust and agency fund from which the expenses of administering this chapter and other department responsibilities may be paid, and no portion of ~~the~~~~said~~ fund shall lapse into the general fund at the end of each fiscal year.

➔Section 97. KRS 236.210 is amended to read as follows:

- (1) ~~A~~~~No~~ person shall *not* engage in the business of installing, erecting, or repairing boilers or pressure vessels unless *that person*~~he or she~~ first obtains a license from the commissioner~~on recommendation of the board~~.
- (2) Each person, firm, or corporation *shall*~~must~~ pass an examination prepared~~by the board~~ and administered by the department.
- (3) A license shall be issued by the commissioner or the chief boiler inspector *to qualified applicants* upon~~recommendation of the board and~~ payment of a reasonable fee not to exceed the cost of examination and other expenses involved as established by the commissioner *in an administrative regulation promulgated in accordance with*~~upon advice of the board pursuant to~~ KRS Chapter 13A.
- (4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a reasonable fee not to exceed the costs involved in such renewal as established by the commissioner *in an administrative regulation promulgated in accordance with*~~upon advice of the board pursuant to~~ KRS Chapter 13A.
- (5) All individuals in the employ of a licensee shall not be required to be licensed.

➔Section 98. KRS 236.220 is amended to read as follows:

- (1) A license issued under KRS 236.210 to 236.260 may be suspended or revoked for falsification of any information contained in the application. Written notice of a suspension shall be given to the licensee by the chief boiler inspector within ten (10) days of the first notification of the violation. A person whose license has been suspended may appeal to the ~~department~~~~board~~, and a hearing shall be conducted in accordance with KRS Chapter 13B.
- (2) If the ~~department~~~~board~~ has reason to believe that a licensee is no longer qualified to hold ~~a~~~~his~~ license, the ~~department~~~~board~~ shall hold a hearing to be conducted in accordance with KRS Chapter 13B. If, as a result of the hearing, the ~~department~~~~board~~ finds that the licensee is no longer qualified to hold ~~a~~~~his~~ license, the ~~department~~~~board~~ shall state in a final order that the license is revoked or suspended.

- (3) A person whose license has been suspended may apply for reinstatement of the license after ninety (90) days from the date of the suspension.

➔Section 99. KRS 236.240 is amended to read as follows:

- (1) ~~A [No]~~ person shall **not** install, erect, or make repairs affecting the strength of a boiler or pressure vessel without first securing a permit from the department. Permits shall be issued only to **a person**~~[persons]~~ licensed under KRS 236.210 to 236.260.
- (2) No work shall be performed except by or under the supervision of ~~a [such]~~ licensed person. The permit fees shall be set by the **department**~~[board]~~.
- (3) The permit fees **shall**~~[will]~~ include one (1) interim inspection and one (1) final inspection for issuance of a boiler or pressure vessel certificate of inspection.
- (4) Special inspections and more than two (2) inspections requested by the licensee for each permit **shall**~~[will]~~ be charged fees in accordance with KRS 236.130.

➔Section 100. KRS 236.250 is amended to read as follows:

- (1) ~~A [No]~~ person shall **not** make repairs affecting the strength or safety of boilers or pressure vessels without first securing a permit from the department unless repairs have been authorized by a boiler inspector or special boiler inspector pending issuance of the permit or unless such repairs are emergency repairs authorized by the department, a special boiler inspector or a boiler inspector pending issuance of the permit. ~~A [No]~~ permit **shall not**~~[will]~~ be required for emergency items not affecting the strength of the boiler or pressure vessel, when performed by qualified welders regularly employed by firms utilizing properly qualified welding procedures. Permits shall only be issued to persons licensed under ~~[the provisions of]~~ this chapter. A permit fee shall be paid directly to the department, and shall accompany the repair application.
- (2) Payment of permit to repair fees shall be required from operating companies performing pressure vessel repairs in accordance with the National Board of Boiler and Pressure Vessel Inspectors inspection code and utilizing properly qualified welding procedures and regularly employing qualified welders to weld on boilers owned and operated by such firm.
- (3) For emergency repairs authorized by a boiler inspector or special boiler inspector, a repair permit shall be obtained and filed with the department within thirty (30) days of repair completion.

➔Section 101. KRS 236.990 is amended to read as follows:

- (1) It shall be unlawful for any person, firm, partnership, or corporation to operate in this state a boiler or pressure vessel without a valid certificate of inspection. The operation of a boiler or pressure vessel without a valid certificate, or at a pressure exceeding that specified in an inspection certificate, shall constitute a Class B misdemeanor on the part of the owner, user, or operator. Each day of unlawful operation shall constitute a separate offense.
- (2) Any person who violates **any provision**~~[the provisions]~~ of KRS 236.040(1); 236.080(4); 236.110(1), (4) and (5); 236.210(1); 236.220(1); 236.240(1) and (2); 236.250(1); or any proper order or administrative regulation made or promulgated thereunder; or who hinders or obstructs an authorized inspector in the performance of his or her duties under this chapter, shall be subject to the penalties in subsection (1) **of this section**~~[above]~~.
- (3) Any person who willfully violates any provision of this chapter, or any administrative regulation, emergency order, order of the state fire marshal, order of an authorized deputy state fire marshal, order of the chief boiler inspector, or order of any authorized boiler inspector, promulgated or made pursuant to this chapter, shall be subject to suspension or revocation of any appointment, commission, certification, registration, license, or permit made or issued by the department and held by that person, in accordance with the procedures specified in KRS 236.220, or in lieu of a suspension or revocation, shall be subject to an administrative fine of not less than ten dollars (\$10) and not exceeding five hundred dollars (\$500) after notice and hearing by the **department**~~[board]~~ in accordance with KRS 236.220. Each day these violations exist shall, in the discretion of the **department**~~[board]~~, be considered as a separate violation.
- (4) As an aid to enforcement off~~[the provisions of]~~ this chapter, or of any administrative regulation or order relating thereto, the department or chief boiler inspector may take any administrative action or bring any authorized legal action designed to prevent or correct any condition constituting or threatening to constitute a violation of any provision of this chapter.

➔Section 102. KRS 318.015 is amended to read as follows:

- (1) This chapter ***shall apply to*** ~~[applies]~~ and shall be in full force and effect in all counties of the Commonwealth.
- (2) The state plumbing code promulgated by the department under the provisions of this chapter ***shall apply to*** ~~[applies]~~ and shall be in full force and effect for all public buildings regardless of location in the Commonwealth.
- (3) This chapter shall not apply to farmsteads.

➔Section 103. KRS 318.040 is amended to read as follows:

- (1) An applicant for a master or journeyman plumber's license shall:
 - (a) Be at least eighteen (18) years of age;
 - (b) Be of good moral character;
 - (c) Be a citizen of the United States or be a resident alien who is authorized to work in the United States; and
 - (d) Possess all the other qualifications that may be prescribed by administrative regulations of the commissioner.
- (2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.
- (3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at times and places fixed by the regulations of the commissioner. Applicants for an examination shall furnish the information required by the commissioner and shall receive from the department due notice of the time and place of the examination.
- (4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests by which the department will determine:
 - (a) With respect to master plumber's license applicants, that applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and
 - (b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.
- (5) The examination papers shall be preserved by the department for a period of one (1) year.
- (6) The department may issue a license to any person who holds a valid license in another state if that state has a statewide plumbing code, ~~[and, in the opinion of the Plumbing Code Committee,]~~ the other state's examination is at least equal to that of Kentucky, and the other state agrees to reciprocate with Kentucky.

➔Section 104. KRS 318.050 is amended to read as follows:

Each application for a license as a master or journeyman plumber shall be accompanied by a reasonable fee as established by the department ***in an administrative regulation promulgated in accordance with KRS Chapter 13A.***

➔Section 105. KRS 318.054 is amended to read as follows:

- (1) The initial license for a master or journeyman plumber shall expire on the last day of the licensee's birth month in the following year. The department may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license.
- (2) The department shall require an applicant for renewal of a license to show evidence of completing the continuing education requirements ***established*** ~~[set forth]~~ by the department ~~[with advice from the State Plumbing Code committee,]~~ in ~~[its]~~ administrative regulations ***promulgated*** ~~[issued]~~ under KRS 318.130.
- (3) The department shall send each licensed master and journeyman plumber a notice advising them that the annual license renewal fee is due. The notice shall be sent to the licensee's last known address no later than thirty (30) days prior to the expiration of the license. The annual license renewal fee shall be a reasonable fee set by regulation of the department. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.

- (4) ~~A [Any]~~ master or journeyman plumber who fails to renew ~~a [his]~~ license prior to expiration may have ~~the [his]~~ license renewed upon payment of the required renewal fee, a revival fee, and upon showing the completion of continuing education requirements. The revival fee for a master plumber shall be five dollars (\$5) and for a journeyman plumber three dollars (\$3). If the renewal and revival fees are not paid **within** one hundred eighty (180) days after the license expires, **the license** ~~[such licenses]~~ shall be automatically canceled by operation of law for nonpayment. ~~A license~~ ~~[; provided, however, that such licenses]~~ may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars (\$10) for a master plumber and six dollars (\$6) for a journeyman plumber. Upon presentation of proper evidence, the department may waive payment of any renewal or revival fee ~~[specified herein]~~ for **a person** ~~[persons]~~ serving on active duty in the Armed Forces of the United States.

➔Section 106. KRS 318.060 is amended to read as follows:

An applicant who fails an examination shall be eligible **to take** ~~[upon reapplication for]~~ the next regular examination upon **submitting a new application and paying** ~~[the payment of]~~ an additional application fee. Applications shall be canceled one (1) year after receipt thereof ~~if, in the event~~ the applicant fails to appear for examination.

➔Section 107. KRS 318.064 is amended to read as follows:

The department may revoke or suspend any plumber's license ~~[issued by it]~~ upon proof that the licensee ~~[has]~~:

- (1) **Has** knowingly violated ~~[the provisions of]~~ this chapter, ~~[or]~~ the Kentucky State Plumbing Code, or the rules and regulations of the department;
- (2) **Has** practiced fraud or deception in applying for or obtaining a license;
- (3) Is incompetent to perform services as a licensed master plumber or a licensed journeyman plumber;
- (4) **Has** permitted his or her license to be used directly or indirectly by another to obtain or perform plumbing work or services; or
- (5) Is guilty of ~~[such]~~ other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

➔Section 108. KRS 318.066 is amended to read as follows:

- (1) ~~A [No]~~ license shall **not** be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor in accordance with KRS Chapter 13B.
- (2) A licensee aggrieved by a final order of the department suspending or revoking a license may appeal ~~[therefrom]~~ to the Circuit Court of the county in which the **appellant's** principal office ~~[of the office]~~ is located in accordance with KRS Chapter 13B.

➔Section 109. KRS 318.077 is amended to read as follows:

- (1) ~~[The committee shall hold hearings, upon adequate notice to affected parties specifying the matters to be considered before the submission to the commissioner of its suggested amendments to the code.]~~ No amendment of the code or any other related **administrative** regulation shall be ~~[issued or]~~ promulgated by the department without the prior review and comment of the **Housing, Buildings and Construction Advisory Committee** under the requirements of KRS 198B.030(8) ~~[and (9) and 198B.040(11)]~~.
- (2) Any person aggrieved by any **administrative** ~~[rule,]~~ regulation ~~[,]~~ or amendment **thereto promulgated** ~~[approved]~~ by the department, within **thirty (30)** ~~[30]~~ days after ~~the [such]~~ action has become final, may appeal ~~[therefrom]~~ to the Circuit Court. For the purposes of this **subsection** ~~[section]~~, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any ~~[such]~~ **administrative** regulation ~~[, rule,]~~ or amendment **thereto promulgated by the department**, whether or not ~~that [such]~~ person was a party to the proceedings out of which the order ~~[, rule,]~~ **administrative** regulation, or amendment arose.

➔Section 110. KRS 318.080 is amended to read as follows:

- (1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a State Plumbers Examining Committee: An employee of the department and three (3) other persons who shall be licensed either as master or journeyman plumbers. The commissioner shall be an ex officio examiner and permanent commissioner of the **examining** committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the commissioner may delegate to a subordinate

employee in the department the power to be present and participate, including the right to vote, as his or her representative at any meeting, hearing or other proceeding of the State Plumbers Examining Committee. Plumber examiners shall serve at the pleasure of the department.

- (2) The department shall appoint assistant plumber examiners who ~~are~~~~[shall be]~~ qualified licensed master or journeyman plumbers, who shall serve at the pleasure of the department. Assistant plumber examiners shall perform~~[such]~~ duties as are delegated to them by the State Plumbers Examining Committee.
- (3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services, but shall be reimbursed for their necessary traveling expenses.

➔Section 111. KRS 318.100 is amended to read as follows:

No person shall advertise *as or claim to be*~~for hold himself or herself out as~~ a licensed master or licensed journeyman plumber within the Commonwealth of Kentucky unless *that person holds a master or journeyman plumber*~~he or she is a holder of a~~ license from the department in accordance with~~[the provisions of]~~ this chapter.

➔Section 112. KRS 318.110 is amended to read as follows:

A company or individual principal may engage in the business of plumbing within any county of the Commonwealth if ~~a~~~~[some]~~ person connected with ~~that~~~~[such a]~~ company or individual principal in responsible charge of the plumbing work is a licensed master plumber. Any master plumber, in responsible charge of plumbing work for a company or individual engaged in the plumbing business, shall notify the department at any time he or she commences or severs his or her connection with the company or individual principal.

➔Section 113. KRS 318.130 is amended to read as follows:

In order to administer this chapter, the department shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky State Plumbing Code, regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, and methods and materials to be used therein within this state, using as a minimum standard the basic principles of the National Plumbing Code Coordinating Committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the committee considers are warranted by local, climatic, or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The department may adopt any other reasonable ~~administrative~~~~[rule or]~~ regulation to administer this chapter if the ~~administrative~~~~[rule or]~~ regulation has been subject to review and comment by the **Housing, Buildings and Construction Advisory** Committee under the requirements of KRS 198B.030(8)~~[and (9) and 198B.040(11)]~~. No rules or regulations so approved by the **Housing, Buildings and Construction Advisory** Committee shall become effective except upon adoption by the department, in satisfaction of the requirements of KRS Chapter 13A. The department shall furnish to the committee's review and comment prior to their adoption by the department. The department shall not promulgate any ~~administrative~~~~[rules or]~~ regulations related to this chapter without granting the **Housing, Buildings and Construction Advisory** Committee the opportunity to comment on the administrative regulation.

➔Section 114. The following KRS sections are repealed:

198B.020 Board of Housing, Buildings and Construction.

198B.200 Kentucky Single Family Dwellings Advisory Committee -- Membership -- Duties.

198B.4005 Elevator Advisory Committee -- Members -- Terms -- Vacancies -- Removal -- Review of administrative regulations -- Voting.

198B.4007 Committee to meet at least quarterly -- Special meetings.

198B.652 Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors.

227.530 Electrical Advisory Committee created -- Members -- Meetings -- Purpose -- Compensation.

227.560 Manufactured Home Certification and Licensure Board -- Membership -- Compensation -- Meetings.

236.020 Board of Boiler and Pressure Vessel Rules.

318.071 State Plumbing Code Committee -- Members -- Compensation -- Terms -- Vacancies.

318.074 Officers of committee -- Meetings.

➔Section 115. All duties, functions, rights, responsibilities, powers, obligations, records, equipment, staff, and supporting budgets of the Kentucky Board of Housing, Buildings and Construction; the Kentucky Board of

Heating, Ventilation, and Air Conditioning Contractors; the Board of Boiler and Pressure Vessel Rules; the Manufactured Home Certification and Licensure Board; the Kentucky Single Family Dwellings Advisory Committee; the State Plumbing Code Committee; the Elevator Advisory Committee; and the Electrical Advisory Committee, as these boards and committees existed prior to the effective date of this Act and including the right to promulgate regulations, to determine whether to issue, suspend, or revoke a license, and to determine whether to issue a penalty to a licensee, shall be transferred to the Department of Housing, Buildings and Construction on the effective date of this Act. This shall include all duties, functions, rights, responsibilities, powers, and obligations of these boards and committees as found in KRS Chapters 198B, 227, 236, and 318, and any other law.

➔Section 116. All administrative regulations promulgated under the authority of the Kentucky Board of Housing, Buildings and Construction; Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors; the Board of Boiler and Pressure Vessel Rules; the Manufactured Home Certification and Licensure Board; the Kentucky Single Family Dwellings Advisory Committee; the State Plumbing Code Committee; the Elevator Advisory Committee; and the Electrical Advisory Committee prior to the effective date of this Act shall remain in full force and effect, shall be deemed promulgated by the Department of Housing, Buildings and Construction, and shall be administered by the department.

➔Section 117. The General Assembly hereby confirms Executive Order 2016-849, dated November 29, 2016, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 10, 2017.

CHAPTER 170

(HB 522)

AN ACT relating to state agency children.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other statute to the contrary, a state agency child, as defined in KRS 158.135(1), who is at least seventeen (17) years of age shall be eligible to seek attainment of a high school equivalency diploma.*
- (2) *Nothing in this section shall be construed to exempt a student who has attained a high school equivalency diploma from the compulsory attendance requirements of KRS 159.010.*

Signed by Governor April 10, 2017.

CHAPTER 171

(HB 524)

AN ACT relating to crimes and punishments.

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

➔SECTION 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 - 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 - 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 - 3. Sex crime;
 - 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 - 5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;
 - 6. ***Promoting human trafficking involving commercial sexual activity, as set forth in KRS 529.110;***
 - 7. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 - ~~8. Use of a minor in a sexual performance, as set forth in KRS 531.310;~~
 - ~~9. Sexual abuse, as set forth in KRS 510.120 and 510.130;~~
 - ~~10. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);~~
 - ~~11. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;~~
 - ~~12. Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and~~
 - ~~13. Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph.~~
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 - 1. A sex crime; or
 - 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:

- (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, 531.320, or 531.335;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
 - (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
 - (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
 - (12) "Victim" has the same meaning as in KRS 421.500;
 - (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and
 - (14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

➔Section 2. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.
- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.
 - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
 - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.
- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

- (a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
 - (b) Curriculum content and methods of instruction for each content area, including differentiated instruction;
 - (c) School-based decision making;
 - (d) Assessment literacy;
 - (e) Integration of performance-based student assessment into daily classroom instruction;
 - (f) Nongraded primary programs;
 - (g) Research-based instructional practices;
 - (h) Instructional uses of technology;
 - (i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
 - (j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;
 - (k) Educational leadership; and
 - (l) Strategies to incorporate character education throughout the curriculum.
- (4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
- (a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
 - (b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.
 - (c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.
- (6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.
- (b) By September 1, 2010, and September 1 of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.
- (7) (a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.

- (b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:
 - 1. Recognizing child physical, sexual, and emotional abuse and neglect;
 - 2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;
 - 3. Responding to the child; and
 - 4. Understanding the response of child protective services.
 - (c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.
 - (d) Each local school board shall adopt one (1) or more trainings from the list approved by the Department of Education to be implemented by schools.
 - (e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.
 - (f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.
 - (g) Every public school shall prominently display the statewide child abuse hotline number administered by the Cabinet for Health and Family Services, ***and the National Human Trafficking Reporting Hotline number administered by the United States Department for Health and Human Services.***
- (8) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.
- (9) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:
- (a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
 - (b) Plan specific instructional strategies to teach at-risk students;
 - (c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
 - (d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
 - (e) Significantly reduce the dropout rate of all students.
- (10) The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.
- (11) The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.

➔Section 3. KRS 176.415 is amended to read as follows:

- (1) The Department of Highways shall display the following flags at each rest area along the Commonwealth's interstate and turnpike system:
 - (a)~~[(1)]~~ The flag of the United States of America, to honor our country and the democratic ideals of our forefathers;
 - (b)~~[(2)]~~ The flag of the Commonwealth of Kentucky, as specified by KRS 2.030, to honor the Commonwealth and its citizens; and
 - (c)~~[(3)]~~ The flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia, the black and white banner commonly known as the POW/MIA flag, which symbolizes America's missing service members and our unwavering determination to account for them.
- (2) ***The Department of Highways shall post in every restroom located on the premises of each rest area in the Commonwealth a printed sign in English and Spanish at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, displaying the current telephone hotline number of the National Human Trafficking Resource Center or any federally funded successor entity. The sign shall be:***
 - (a) ***Created using gender-neutral language supplied to the Department of Highways by the Cabinet for Health and Family Services; and***
 - (b) ***Posted in a prominent place easily seen by patrons.***

➔Section 4. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;
- (4) "Deadly weapon" means any of the following:
 - (a) A weapon of mass destruction;
 - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
 - (c) Any knife other than an ordinary pocket knife or hunting knife;
 - (d) Billy, nightstick, or club;
 - (e) Blackjack or slapjack;
 - (f) Nunchaku karate sticks;
 - (g) Shuriken or death star; or
 - (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
- (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
- (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
- (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
- (9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

- (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
- (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
- (12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- (13) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- (15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ. ***For a child (12) years of age or less at the time of the injury, a serious physical injury includes but is not limited to the following:***
 - (a) ***Bruising near the eyes, or on the head, neck, or lower back overlying the kidneys;***
 - (b) ***Any bruising severe enough to cause underlying muscle damage as determined by elevated creatine kinase levels in the blood;***
 - (c) ***Any bruising or soft tissue injury to the genitals that affects the ability to urinate or defecate;***
 - (d) ***Any testicular injury sufficient to put fertility at risk;***
 - (e) ***Any burn near the eyes or involving the mouth, airway, or esophagus;***
 - (f) ***Any burn deep enough to leave scarring or dysfunction of the body;***
 - (g) ***Any burn requiring hospitalization, debridement in the operating room, IV fluids, intubation, or admission to a hospital's intensive care unit;***
 - (h) ***Rib fracture;***
 - (i) ***Scapula or sternum fractures;***
 - (j) ***Any broken bone that requires surgery;***
 - (k) ***Head injuries that result in intracranial bleeding, skull fracture, or brain injury;***
 - (l) ***A concussion that results in the child becoming limp, unresponsive, or results in seizure activity;***
 - (m) ***Abdominal injuries that indicate internal organ damage regardless of whether surgery is required;***
 - (n) ***Any injury requiring surgery;***
 - (o) ***Any injury that requires a blood transfusion; and***
 - (p) ***Any injury requiring admission to a hospital's critical care unit;***
- (16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
- (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
- (18) "Weapon of mass destruction" means:
 - (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
 - (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
 - (c) Any weapon involving a disease organism; or
 - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Signed by Governor April 10, 2017.

CHAPTER 172

(HB 375)

AN ACT relating to unemployment insurance for military spouses.

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

➔Section 1. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
 - (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
 - (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
 - (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:
 1. Leaving his next most recent suitable work which was concurrent with his most recent work;
 2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home;
 3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; or
 4. ~~Leaving work to accompany the worker's spouse to a different state, *military base of assignment, or duty station that is one hundred (100) road miles or more, as measured on a one (1) way basis, from the worker's home* when the spouse is reassigned by the military;~~
 - ~~b. Subdivision a. of this subparagraph shall apply only if the state of relocation has adopted a statute substantially similar to that subdivision.~~
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Education and Workforce Development Cabinet and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Education and Workforce Development Cabinet of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.
- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Signed by Governor April 10, 2017.

CHAPTER 173

(HB 377)

AN ACT relating to workers' compensation and declaring an emergency.

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

➔Section 1. KRS 342.1223 is amended to read as follows:

- (1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.
- (2) The commission shall:
 - (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;
 - (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;
 - (c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;
 - (d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;
 - (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;
 - (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;
 - (g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the Department of Revenue, of all entities subject to the assessments imposed in this chapter; and

- (h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.
- (3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:
 - (a) To sue and be sued, complain, or defend, in its name;
 - (b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;
 - (c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;
 - (d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;
 - (e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and
 - (f) To make and promulgate administrative regulations.
- (4) *The Kentucky Workers' Compensation Funding Commission may utilize the investment expertise and advice of the Office of Financial Management within the Finance and Administration Cabinet. The Kentucky Workers' Compensation Funding Commission may procure one (1) or more consulting firms and enter into a personal service contract with such consulting firms to provide investment advisory, investment counseling, or investment management services. The Office of Financial Management shall participate in the selection of any firms for investment services provided, however, the Kentucky Workers' Compensation Funding Commission shall have the right to make the final decision on the selection of any firms. Notwithstanding any provisions of this section to the contrary, all contracts for investment advisory, investment counseling, or investment management services or for the management of assets shall be subject to KRS Chapter 45A. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.* ~~Notwithstanding the provisions of this chapter to the contrary, The Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management in the Office of the Controller within the Finance and Administration Cabinet rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.~~
- (5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) *The General Assembly declares:*

- (a) *The Kentucky coal workers' pneumoconiosis fund was created in 1996 for the purpose of placing the financial responsibility for liabilities incurred as a result of workers' compensation awards for coal workers' pneumoconiosis on the employers engaged in the severance and processing of coal through assessments placed on workers' compensation premiums and self-insured employers and severed coal. These assessments have been used to pay fifty percent (50%) of indemnity benefits of a coal workers' pneumoconiosis claim. However, the combination of the severe downturn in the amount of coal being severed in Kentucky, the drastic reduction in the number of coal employers and employees, and the significant increase in coal workers' pneumoconiosis claims being filed have had a severe negative impact on the Kentucky coal workers' pneumoconiosis fund.*
- (b) *For calendar year 2017, the Kentucky Workers' Funding Commission, which is required to assess all employers engaged in the severance and processing of coal at a rate that would fully fund and prefund all claim liabilities and administrative expenses through December 31 of the following year, assessed coal employers forty-nine and one-half percent (49.5%) on employers' workers' compensation insurance premiums and assessed forty-one and seventy-four hundredths cents (\$0.4174) per ton of severed coal.*
- (c) *The Kentucky coal workers' pneumoconiosis fund will not have adequate funding without burdensome assessments on coal employers in order to meet claim liabilities and administrative expenses in the upcoming years.*

- (2) *Therefore, it is the intent of the General Assembly to close the Kentucky coal workers' pneumoconiosis fund on July 1, 2017, to any coal workers' pneumoconiosis claims filed after June 30, 2017, and have the assets and liabilities of the Kentucky coal workers' pneumoconiosis fund transferred through a loss portfolio transfer agreement to the Kentucky Employers' Mutual Insurance Authority, which is a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provisions of KRS Chapter 342 or any other provisions to the contrary, the Kentucky coal workers' pneumoconiosis fund shall have no liability for income benefits for coal workers' pneumoconiosis claims filed or reopened on or after July 1, 2017.*
- (2) *Notwithstanding any provisions of KRS Chapter 342 or any other provisions to the contrary, as soon as practically possible after July 1, 2017, all of the assets and liabilities of the Kentucky coal workers' pneumoconiosis fund shall be transferred from the Kentucky Workers' Compensation Funding Commission and Division of Workers' Compensation Funds to the Kentucky Employers' Mutual Insurance Authority through a loss portfolio transfer agreement. The Kentucky Employers' Mutual Insurance Authority shall have full authority and responsibility over the Kentucky coal workers' pneumoconiosis fund's claims and shall administer the claims as permitted pursuant to KRS Chapter 342.*
- (3) *Notwithstanding the provisions of Section 4 of this Act, the Workers' Compensation Funding Commission shall impose an assessment at an annual rate of fourteen percent (14%) upon the amount of workers' compensation premiums received on or after January 1, 2017, through December 31, 2017, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on or after January 1, 2017, through December 31, 2017, an assessment at the rate of fourteen percent (14%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.*
- (4) *Notwithstanding the provisions of Section 4 of this Act, the Workers' Compensation Funding Commission shall impose an assessment at an annual rate of fourteen percent (14%) upon the amount of workers' compensation premiums received on or after January 1, 2018, through December 31, 2018, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on or after January 1, 2018, through December 31, 2018, an assessment at the rate of fourteen percent (14%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.*
- (5) *Notwithstanding the provisions of Section 4 of this Act, in addition to the assessments in subsection (3) and (4) of this section, for the calendar years of 2017 and 2018, an assessment at the rate of fifteen cents (\$0.15) per ton shall be imposed upon the total annual amount of tons of coal severed by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.*
- (6) *The assessments imposed by this section shall supersede any assessment imposed pursuant to Section 4 of this Act for the calendar years of 2017 and 2018. Any amount paid and collected that exceeds the assessment imposed by this section in the calendar year of 2017 shall be reimbursed to the employer or credited to the employer's account subject to the preference of the employer.*
- (7) *Assessments pursuant to this section and Section 4 of this Act that are collected by the Kentucky Worker's Compensation Funding Commission shall be transferred to the Kentucky Employers' Mutual Insurance Authority.*
- (8) *When the Kentucky Workers' Compensation Funding Commission and the Kentucky Employers' Mutual Insurance Authority have determined that the Kentucky coal workers' pneumoconiosis fund has fully funded its liabilities, then the authority for imposing assessments pursuant to this section and Section 4 of this Act shall cease to exist, and the Kentucky coal workers' pneumoconiosis fund shall be abolished. Any remaining assessments received following the exhaustion of liabilities shall be refunded pro rata to all employers who have paid an assessment in the year that liabilities are fully funded.*

➔Section 4. KRS 342.1242 is amended to read as follows:

- (1) *There is created the Kentucky coal workers' pneumoconiosis fund which shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996, which are filed on or before June 30, 2017. Income*

benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement *for any claims filed after June 30, 2017* ~~[until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (2) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability].~~

- (2) *For claims brought under Section 7 of this Act for last exposure incurred on or after December 12, 1996 which are filed on or before June 30, 2017*, the employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.
- (3) (a) For the purpose of funding ~~and prefunding~~ the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.
- (b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents (\$0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
- (c) As of June 30, ~~2018~~²⁰⁰⁶, and each year thereafter *until the liabilities of the fund are fully funded*, the *Funding Commission and the Kentucky Employers' Mutual Insurance Authority* ~~[funding commission]~~ shall determine the assets of the fund and the claim ~~[and administrative expense]~~ liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to ~~fully~~ fund ~~[and prefund all]~~ claim liabilities ~~[and administrative expenses]~~ through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than October 1 of the year preceding the rate change.
- (4) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be *transferred to the Kentucky Employers' Mutual Insurance Authority, which is administering the coal workers' pneumoconiosis fund* ~~[credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission]~~. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.
- (5) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.

- (6) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (7) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).
- (8) ***Assessments issued pursuant to this section shall cease to be imposed once the liabilities of the fund are fully funded. After the liabilities are fully funded, any excess assessments shall be refunded to the employers on a pro rata basis.***

➔Section 5. KRS 342.316 is amended to read as follows:

- (1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator.
- (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.
- (2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, or a diagnosis of the disease is first communicated to him or her, whichever shall first occur.
- (3) The procedure for filing occupational disease claims shall be as follows:
 - (a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his or her claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.
 - 1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified "B" reader. The chest X-ray upon which the report is made shall be filed with the application as well as spirometric tests when pulmonary dysfunction is alleged.
 - 2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.
 - (b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:
 - 1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of

the latest ILO Classification report. Only interpretations by National Institute of Occupational Safety and Health (NIOSH) certified "B" readers shall be admissible.

2. Spirometric testing shall be conducted in accordance with the standards recommended in the "Guides to the Evaluation of Permanent Impairment" and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.
3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the "Guides to the Evaluation of Permanent Impairment" and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
4. The procedure for determination of occupational disease claims shall be as follows:
 - a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.
 - b. The commissioner shall assign the claim to an administrative law judge and, except for coal workers' pneumoconiosis claims, shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.
 - c. Except for coal workers' pneumoconiosis claims, within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial. In coal workers' pneumoconiosis claims, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the issuance by the commissioner of the notice of the consensus reading unless the consensus is that the miner has not developed coal workers' pneumoconiosis category 1/0 or greater. In the event the consensus procedure is exhausted without consensus being established, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the commissioner notification to the administrative law judge that consensus has not been reached.
 - d. Within forty-five (45) days of assignment of a coal workers' pneumoconiosis claim to an administrative law judge, the employer shall cause the employee to be examined by a physician of the employer's choice and shall provide to all other parties and file with the commissioner the X-ray interpretation by a "B" reader. The examination of the employee shall include spirometric testing if pulmonary dysfunction is alleged by the employee in the application for resolution of a claim. The commissioner shall determine whether the X-ray interpretations filed by the parties are in consensus.
 - e. If the readings are not in consensus, the commissioner shall forward both films, masking information identifying the facility where the X-ray was obtained and the referring physician, consecutively to three (3) "B" readers selected randomly from a list maintained by the commissioner for interpretation. Each "B" reader shall select the highest quality film and report only the interpretation of that film. The commissioner shall determine if

two (2) of the X-ray interpretations filed by the three (3) "B" readers selected randomly are in consensus. If consensus is reached, the commissioner shall forward copies of the report to all parties as well as notice of the consensus reading which shall be considered as evidence. If consensus is not reached, the administrative law judge shall decide the claim on the evidence submitted.

- f. "Consensus" is reached between two (2) chest X-ray interpreters when their classifications meet one (1) of the following criteria: each finds either category A, B, or C progressive massive fibrosis; or findings with regard to simple pneumoconiosis are both in the same major category and within one (1) minor category (ILO category twelve (12) point scale) of each other.
 - g. The administrative law judge shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.
 - h. Unless a voluntary settlement is reached by the parties, or the parties agree otherwise, the administrative law judge shall issue a written determination within sixty (60) days following a hearing. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.
- 5. The procedure for appeal from a determination of an administrative law judge shall be as set forth in KRS 342.285.
- (4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or its insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.
- (b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his or her last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.
- (5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:
 - (a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;
 - (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and
 - (c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his or her death occurring at any time within twenty (20) years from the date of disability, his or her dependents, if any, shall be awarded compensation for his or her death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).

- (6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or its representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.
- (7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself or herself, in writing, as not having been previously disabled, laid-off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his or her knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his or her knowledge, the previous state of his or her health.
- (8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.
- (9) Whenever any claimant misconceives his or her remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his or her application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.
- (10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he or she was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.
- (11)
 - (a) ***For claims filed on or before June 30, 2017***, income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.
 - (b) ***Income benefits for coal-related occupational pneumoconiosis for claims filed after June 30, 2017 shall be paid by the employer in whose employment the employee was last exposed to the hazards of coal workers' pneumoconiosis.***
 - (c) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.
- (12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.
- (13) For coal-related occupational pneumoconiosis claims, the consensus procedure shall apply to all claims which have not been assigned to an administrative law judge prior to July 15, 2002. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order.

➔Section 6. KRS 342.320 is amended to read as follows:

- (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge pursuant to the statutes and administrative regulations.
- (2) In an original claim, attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

- (a) Twenty percent (20%) of the first twenty-five thousand dollars (\$25,000) of the award, fifteen percent (15%) of the next ten thousand dollars (\$10,000), and five percent (5%) of the remainder of the award, not to exceed a maximum fee of twelve thousand dollars (\$12,000). This fee shall be paid by the employee from the proceeds of the award or settlement; and
 - (b) Attorney-client employment contracts entered into and signed after July 14, 2000, shall be subject to the conditions of paragraph (a) of this subsection.
- (3) In approving an allowance of attorney's fees, the administrative law judge shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.
- (4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the claim. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:
 - (a) The employee may pay the attorney's fee out of his or her personal funds or from the proceeds of a lump-sum settlement; or
 - (b) The administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.
- (5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which the attorney's fee is to be paid. His or her selection and statement that he or she fully understands the method to be used shall be submitted by his or her attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.
- (6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.
- (7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(a) of this section applicable to any additional amount recovered.
- (8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the limitation of twelve thousand dollars (\$12,000) maximum fees except that fees for representing employers shall not be dependent upon the result achieved. Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed. ~~Fees for legal services in presenting a claim for reimbursement from the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars (\$1,000).~~ All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

➔Section 7. KRS 342.732 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:
- (a)
1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.
 2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent ($33\frac{1}{3}\%$) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent ($37\frac{1}{2}\%$) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.
 3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a General Equivalency Diploma (GED) in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.
 4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars (\$5,000).
 5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.
 6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars (\$5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars (\$10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.
 7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).
 9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.
 10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred;
- (b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.
2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under paragraph (a)1. to 6. of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not ~~revocable~~~~[revokable]~~, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1. to 6. of this subsection to extend the period of disability;
- (c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks;
- (d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability; and
- (e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income

benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

- (2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.
- (3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his or her decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the time of the arterial blood gas study.
- (4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the Office of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the Office of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342.740 notwithstanding, *for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.*
- (5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:
 - (a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;
 - (b) Establish requirements for approval and certification of a bona fide training or education program;
 - (c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;
 - (d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and
 - (e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the Kentucky Adult Education Program within the Council on Postsecondary Education as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.
- (6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

➔Section 8. KRS 342.792 is amended to read as follows:

- (1) The claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis between December 12, 1996, and July 15, 2002, shall nonetheless be governed by the provisions of KRS 342.732 and

notwithstanding the provisions of KRS 342.125 all claims for benefits which were filed for last injurious occupational exposure to coal dust occurring between December 12, 1996, and July 15, 2002, shall be considered pursuant to the provisions of KRS 342.732 and administrative regulations promulgated by the commissioner, and closed claims, except claims dismissed for reasons other than failure to meet medical eligibility standards, may be reopened by the claimant. Income or retraining incentive benefits shall be awarded thereon as if the entitlement standards established by the amendments to KRS 342.732 were effective at the time of last exposure. Any benefits previously granted by an award or settlement shall be credited against any subsequent award or settlement and no interest shall be payable on additional benefits. A previous grant of retraining incentive benefits shall be credited only to the extent that the benefits were actually paid. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding, ***for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.***

- (2) The original claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis prior to December 12, 1996, which was subject to a university evaluation pursuant to KRS 342.315 and was dismissed upon a finding that the miner did not prove the presence of coal workers' pneumoconiosis radiographically may be reopened by the claimant notwithstanding the provisions of KRS 342.125, pursuant to administrative regulations adopted by the commissioner. Income benefits may be awarded thereon pursuant to entitlement standards effective as of the date of last exposure, except the income or retraining benefits shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding, ***for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.***
- (3) Notwithstanding the provisions of KRS 342.316(4)(a), the coal workers' pneumoconiosis claim of any miner last exposed between December 12, 1996, and July 15, 2002, may be filed with the commissioner on or before December 12, 2003, or within the time frame prescribed by KRS 342.316(4)(a), whichever is longer. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid by the Kentucky coal workers' pneumoconiosis fund without interest, the provisions of KRS 342.1242 notwithstanding, ***for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.***
- (4) Administrative regulations promulgated by the commissioner pursuant to subsections (1) and (2) of this section shall provide that chest X-rays previously taken at university medical schools pursuant to KRS 342.315 shall be obtained by the commissioner and forwarded to three (3) randomly selected "B" readers for determination of consensus pursuant to KRS 342.316(3)(b)4.e. The claim shall be assigned to an administrative law judge for determination of whether the claim should be reopened and the award of additional benefits, if any.

➔Section 9. KRS 342.794 is amended to read as follows:

- (1) The commissioner shall maintain a list of duly qualified "B" reader physicians who are licensed in the Commonwealth. The list shall include "B" reader physicians at the university medical schools and other "B" reader physicians certified by the National Institute of Occupational Safety and Health (NIOSH) who have agreed to interpret chest X-rays pursuant to KRS 342.316 for a fee to be fixed by the commissioner and paid by the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding, ***for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.***
- (2) Physicians from the "B" reader list shall be utilized as necessary to obtain consensus classifications of chest films in coal workers' pneumoconiosis claims. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order.
- (3) "B" reader" means a physician who has demonstrated proficiency in evaluating chest roentgenograms for roentgenographic quality and in the use of the ILO classification for interpreting chest roentgenograms for pneumoconiosis and other diseases by taking and passing a specially designed proficiency examination given on behalf of the National Institute of Occupational Safety and Health (NIOSH) or by the Appalachian Laboratory for Occupational Safety and Health (ALOSH), or successors.
- (4) The university medical schools in consultation with the commissioner shall jointly develop a procedure to annually report the performance of physicians on the "B" reader list who have participated in the consensus procedure established in KRS 342.316. The physicians shall be evaluated with respect to the timeliness and

completeness of their reports, as well as the frequency at which the physician's classification of X-rays differs from the consensus reading. The commissioner shall remove a physician from the "B" reader list if the physician consistently renders incomplete or untimely reports, or if the physician's interpretations of X-rays are not in conformity with the consensus reading fifty percent (50%) of the time. The report required under this subsection shall be provided to the Interim Joint Committee on Labor and Industry beginning in July 1, 2003 and by July 1 of each year thereafter.

➔Section 10. KRS 342.120 is amended to read as follows:

- (1) There is created the Division of Workers' Compensation Funds in the Department of Workplace Standards which shall be responsible for the administration of the special fund and the coal workers' pneumoconiosis fund and the maintenance of records regarding the payment of claims by these funds. ***The Division of Workers' Compensation Funds shall have no responsibility for the coal workers' pneumoconiosis fund once the assets and liabilities have been transferred to the Kentucky Employers' Mutual Insurance Authority, which will administer the fund pursuant to Section 3 of this Act.*** The Division of Workers' Compensation Funds shall be headed by a director appointed by the secretary of the Labor Cabinet, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the funds and the maintenance of records regarding the payment of claims by the funds.
- (2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.
- (3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge. This provision is remedial and shall apply to all pending and future claims.

➔Section 11. The following KRS section is repealed:

342.1241 Legislative findings and declarations on Kentucky coal workers' pneumoconiosis fund.

➔Section 12. Whereas the economic decline of the coal industry requires immediate action with regard to the funding of the Kentucky coal workers' pneumoconiosis fund, which directly impacts the economic well-being of coal employers and employees, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2017.

CHAPTER 174

(HB 388)

AN ACT relating to governmental regulatory authority and declaring an emergency.

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

➔Section 1. KRS 65.7043 is amended to read as follows:

The purposes of KRS 65.7041 to 65.7083 are as follows:

- (1) KRS 65.7047 provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and to devote local resources to support the development of projects in those local development areas. Local development areas established under KRS 65.7047 and projects within local development areas shall not be eligible for participation by the Commonwealth; and
- (2) (a) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties:
 1. To establish development areas for:

- a. The redevelopment of previously developed land within their jurisdictional boundaries; and
 - b. The development of previously undeveloped land, if:
 - i. The project proposed for the development area includes an arena as part of the proposed development;
 - ii. The project is a mixed-use development located in a university research park;
 - iii. The project is a mixed-use development located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees;~~or~~
 - iv. The project is a mixed-use development which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; ~~or~~~~and~~
 - v. *The project is a mixed-use development that includes a tract of previously undeveloped land that was owned by a liberal arts educational institution within four (4) years prior to the effective date of this Act and the previously undeveloped land is bounded on one (1) side by a four (4) lane United States highway on the effective date of this Act. No more than fifty percent (50%) of the previously undeveloped land shall be used for qualified mixed uses; and*
2. To devote local resources to providing redevelopment assistance and supporting projects in those development areas.
- (b) Projects within development areas established pursuant to KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Subchapter 30 of KRS Chapter 154.

➔Section 2. KRS 154.30-060 is amended to read as follows:

- (1) The Commonwealth Participation Program for Mixed-Use Redevelopment in Blighted Urban Areas is hereby established.
- (2) State participation under this program shall be limited to the support of approved public infrastructure costs and costs associated with land preparation, demolition, and clearance determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements, land preparation, demolition, and clearance.
- (3) As used in this section:
 - (a) "Mixed-use" means a project:
 - 1. That includes at least two (2) qualified uses, *each of which comprises at least twenty percent (20%) of the total finished square footage of the proposed project or represents at least twenty percent (20%) of the total capital investment; or*
 - 2. *That includes at least three (3) qualified uses:*
 - a. *One (1) of which comprises at least twenty percent (20%) of the total finished square footage of the proposed project or represents at least twenty percent (20%) of the total capital investment; and*
 - b. *The remainder of which, when combined, jointly comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent at least twenty percent (20%) of the total capital investment*~~[That meets the requirements established by paragraph (b)2.b. of this subsection];~~
 - (b) ~~[1.—]~~"Qualified use" means:
 - 1.~~[a.]~~ Retail;
 - 2.~~[b.]~~ Residential;

- 3.~~{e-}~~ Office;
 - 4.~~{d-}~~ Restaurant; or
 - 5.~~{e-}~~ Hospitality~~;~~
2. ~~a. Except as otherwise provided in paragraph (b)2.b. of this subsection, to be a qualified use the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and~~
- ~~b. In any location within the territory of a consolidated local government or an urban county government, a project whose uses do not meet the requirements of paragraph (b)2.a. of this subsection may qualify as a mixed use project if all of the following apply:~~
- ~~i. The project includes at least three (3) of the uses listed in paragraph (b)1. of this subsection;~~
 - ~~ii. One (1) of those uses meets the requirements of paragraph (b)2.a. of this subsection; and~~
 - ~~iii. The other uses, when combined, jointly comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and~~
- (c) "Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.
- (4) To be considered for state participation under this program, a project shall:
- (a) Be located in an area that has three (3) or more of the conditions listed in KRS 65.7049(3)(a), or be a project described in KRS 65.7049(3)(b);
 - (b) Be a mixed-use project;
 - (c) Represent new economic activity in the Commonwealth;
 - (d) Result in a capital investment between twenty million dollars (\$20,000,000) and two hundred million dollars (\$200,000,000);
 - (e) Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;
 - (f) Include pedestrian amenities and public space; and
 - (g) Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the authority as required by KRS 154.30-030(6)(b).
- (5) The following costs may be recovered pursuant to this section:
- (a) Up to one hundred percent (100%) of approved public infrastructure costs; and
 - (b) Up to one hundred percent (100%) of expenses for land preparation, demolition, and clearance necessary for the development to occur.
- (6) The commission shall review the application, the certification required by KRS 154.30-030, and supporting information as provided in KRS 154.30-030.
- (7) The authority shall specifically identify the state taxes from which incremental revenues will be pledged. The authority may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the tax incentive agreement from all approved state taxes shall not exceed the costs and expenses determined under subsection (5) of this section.
- (8) As part of the approval process, the authority shall determine the following:
- (a) The footprint of the project;
 - (b) That the proposed project meets the requirements established by subsection (4) of this section;
 - (c) The maximum amount of approved public infrastructure costs and expenses for land preparation, demolition, and clearance;

- (d) That the local revenues pledged to support the public infrastructure of the project and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (e) The termination date of the tax incentive agreement; and
 - (f) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the tax incentive agreement.
- (9) If state income taxes or local occupational licenses taxes are included for a project that includes office space, the authority shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.
- (10) The pledge of state incremental tax revenues of the Commonwealth by the authority shall be implemented through the execution of a tax incentive agreement between the Commonwealth and the agency, city, or county in accordance with KRS 154.30-070.

➔Section 3. KRS 65.7049 is amended to read as follows:

Any city or county may establish a development area pursuant to this section, KRS 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use, and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area either:
 - (a) Has two (2) or more of the following conditions:
 - 1. Substantial loss of residential, commercial, or industrial activity or use;
 - 2. Forty percent (40%) or more of the households are low-income households;
 - 3. More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
 - 4. Substantial abandonment of residential, commercial, or industrial structures;
 - 5. Substantial presence of environmentally contaminated land;
 - 6. Inadequate public improvements or substantial deterioration in public infrastructure; or
 - 7. Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; or
 - (b) The project is a mixed-use development:
 - 1. Located in a university research park;
 - 2. Located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees; or
 - 3. ~~[The project is a mixed-use development]~~ Which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; and
- (4) The governing body of the city or county shall find that all of the following are true for projects meeting the requirements of paragraph (a) of subsection (3) of this section:

- (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
- (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and
- (c)
 - 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or
 - 2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

➔Section 4. KRS 189.2301 is amended to read as follows:

The provisions of this chapter to the contrary notwithstanding, a vehicle that has a valid registration of a declared gross vehicle weight, including any towed unit, of eighty thousand (80,000) pounds or less shall be exempt from any axle weight provisions when operating on any state-maintained highway that is classified as a "AAA" highway, if the vehicle is hauling seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less. A person operating a vehicle under the provisions of this section shall have written documentation verifying the weight of the load being hauled is seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less. ***The provisions of this section shall not apply to any vehicle operating on the interstate highway system or any vehicle operating on any highway where the vehicle would exceed any posted bridge weight limit.***

➔Section 5. Sections 1 to 3 of this Act shall apply to applications for which a Tax Incentive Agreement has not been approved prior to the effective date of this Act.

➔Section 6. Whereas tax incentive financing is essential for economic growth in the Commonwealth, an emergency is declared to exist, Sections 1 to 3 and 5 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2017.

CHAPTER 175

(HB 484)

AN ACT relating to sponsorships.

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

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

As used in this section and Section 2 of this Act:

- (1) ***"Business" has the same meaning as in Section 3 of this Act;***
- (2) ***"Commemoration" means an object, such as a plaque or a sign, honoring a living person or an event, but does not include naming rights;***
- (3) ***"Does business with" or "doing business with" has the same meaning as in Section 3 of this Act;***
- (4) ***"Donation" means a monetary or in-kind contribution given to a governmental body to further the governmental body's mission with no tangible or intangible benefit to the donor. Name recognition in promotional materials or on a commemoration or memorial shall not constitute a tangible or intangible benefit to a donor;***
- (5) ***"Gift" means a payment, loan, subscription, advance, deposit of money, service, or anything of monetary value given to a governmental body to further a governmental body's mission, where only the governmental body receives the tangible or intangible benefit, and no personal benefits accrue to any individual;***

- (6) *"Memorial" means an object, such as a plaque or a sign, honoring a deceased person or an event, but does not include naming rights;*
- (7) *"Naming rights" means a form of advertising sponsorship contracted by one (1) of the methods in KRS 45A.075(1) or (2) or 45A.077, where a business or other entity purchases the right to name a building, structure, or any other physical property owned or operated by the Commonwealth for a defined period of time, for consideration. No naming rights shall be granted to alter the names of state parks, cemeteries, historical memorials, battlefields, state institutions of higher education, historical landmarks, the Capitol, the Capitol Annex, lakes, or rivers;*
- (8) *"Person" means an individual or any legal entity through which business is conducted for profit;*
- (9) *"Prohibited source" means any person, company, or organization that:*
 - (a) *Has a current contractual relationship with a governmental body;*
 - (b) *Conducts operations that are regulated by a governmental body;*
 - (c) *May be lobbying or attempting to influence matters of that governmental body;*
 - (d) *That has any interests that might be affected by the performance or nonperformance of official duties of the governmental body or the governmental body's employees; or*
 - (e) *Is a person, company, or organization currently bidding on or proposing a contractual project with the governmental body under one (1) of the methods established in KRS 45A.075 or 45A.077;*
- (10) *"Public benefit" means a benefit accrued to a governmental body of the Commonwealth to further the mission of or improve the governmental body or its infrastructure; and*
- (11) *"Sponsorship" means an agreement for the receipt of cash or noncash value by a governmental body from a business or other entity in exchange for advertising or similar commercial considerations, including event sponsorships.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

- (1) *A governmental body may accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth. Donations and gifts shall not be from a prohibited source.*
- (2) *In exchange for a donation or gift, a governmental body may consider an accompanying request for a commemoration or memorial, but all such requests involving state property shall be subject to approval by the secretary.*
- (3) *Except as provided in Section 6(2)(d) of this Act, naming rights of structures, buildings, or any other physical property owned or operated by the Commonwealth of Kentucky shall be competitively awarded pursuant to KRS Chapter 45A and subject to review and approval by the secretary. Naming rights shall not constitute an endorsement of a particular business by the Commonwealth.*
- (4) *Notwithstanding KRS Chapter 11A, a governmental body may accept and solicit sponsorships from persons and businesses in the following manner:*
 - (a) *A sponsorship shall be for a defined period of time, a specific event, or a particular governmental body purchase or need;*
 - (b) *A governmental body seeking to solicit a sponsorship shall advertise the sponsorship opportunity on its Web site, newsletter, or other written media for a minimum of seven (7) calendar days. A sponsorship opportunity shall describe the number of potential sponsorships available, the relative importance of price and other evaluation factors used to ensure "best value" as defined in KRS 45A.070, and the advertising or similar commercial considerations available from the Commonwealth for a particular sponsorship opportunity;*
 - (c) *The governmental body shall notify the Office of Material and Procurement Services in the Office of the Controller of the Finance and Administration Cabinet by providing copies of its sponsorship opportunity advertisements to the office. If the Office of Procurement Services approves or does not respond to the governmental body within one (1) business day of notification, the governmental body may proceed under this subsection;*

- (d) *At the end of the advertising period for a sponsorship, all responses shall be evaluated in accordance with the evaluation factors set forth in the sponsorship opportunity;*
 - (e) *Written or oral discussions may be conducted with responsible bidders in accordance with KRS 45A.085(7);*
 - (f) *A sponsorship shall be awarded to the responsible bidder determined in writing to be most advantageous to the Commonwealth, taking into consideration the evaluation factors set forth in the sponsorship opportunity. All evaluation documentation, scoring, and summary conclusions of the award shall be made a part of the file or governmental body record;*
 - (g) *If insufficient eligible responses are received in response to the advertising of a sponsorship opportunity, and the purchasing officer determines in writing that further bidding would not likely result in additional responsive proposals being received by the Commonwealth, then noncompetitive negotiations with non-prohibited sources may be used to award contracts for the remaining number of sponsorships available;*
 - (h) *A sponsorship shall not constitute an endorsement of a particular business by the Commonwealth as the sole vendor of choice; and*
 - (i) *An entity that is a prohibited source may be considered for a sponsorship opportunity only if there is a written finding by the purchasing officer that:*
 - 1. *The entity is not lobbying or attempting to influence matters of the governmental body; and*
 - 2. *The sponsorship will provide:*
 - a. *A public benefit to the Commonwealth; or*
 - b. *Economic development or enhanced tourism in the Commonwealth.*
- (5) *An entity that is a prohibited source due to its current contractual relationship with a governmental body may provide conferences or training events for the benefit of the governmental body only:*
- (a) *When the entity does not have any interests that might be affected by the performance or nonperformance of the governmental body's official duties; and*
 - (b) *The conference or training promotes safety, economic development, or tourism in the Commonwealth, or there is otherwise a public benefit to the Commonwealth.*
- (6) *Governmental body employees whose official duties include acceptance or solicitation of donations, gifts, or sponsorships shall not be involved with:*
- (a) *The solicitation or award of contracts by the governmental body; or*
 - (b) *The noncompetitive negotiation of naming rights of structures, buildings, or any physical property owned or operated by the Commonwealth.*

➔Section 3. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members,

campaign contributions, *the waiver of a registration fee for a presenter at a conference or training described in subsection (5) of Section 2 of this Act*, or door prizes available to the public;

- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;

- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.

➔Section 4. KRS 11A.045 is amended to read as follows:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety. ***This subsection shall not apply to:***
 - (a) ***Activities involving sponsorships, naming rights, or similar honoraria granted under Section 2 of this Act; or***
 - (b) ***Individuals traveling on their own while involved in activities related to Section 2 of this Act.***
- (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.
- (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:
 - (a) Was not solicited by the public servant;
 - (b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars (\$25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and
 - (c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

➔Section 5. KRS 11A.055 is amended to read as follows:

- (1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for a charitable nonprofit organization granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of the charitable organization, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the charitable organization.
- (2) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for crime prevention, drug and alcohol abuse prevention, ***tourism promotion***, and traffic safety programs without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of a program specified in this section, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the program.
- (3) ***Any provision of KRS Chapter 11A to the contrary notwithstanding, any nonprofit charitable organization organized under 26 U.S.C. sec. 501(c)(3), affiliated with the Tourism, Arts, and Heritage Cabinet, or whose purpose is the promotion of tourism in the Commonwealth:***

- (a) *Shall not be subject to the provisions of this chapter;*
- (b) *May benefit from cabinet employees working on its behalf without the employees violating the provisions of this chapter; and*
- (c) *May make contributions to the cabinet after being solicited by cabinet employees without the employees violating the provisions of this chapter.*

➔Section 6. KRS 45A.095 is amended to read as follows:

(1) *For purposes of this section:*

- (a) *"Emergency condition" means a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person; and*
- (b) *"Sole source" means a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions.*

(2) A contract may be made by noncompetitive negotiation only:

- (a) For sole source purchases;~~[-or-]~~
- (b) When competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A;~~[-or-]~~
- (c) When emergency conditions exist; *or*
- (d) *For sponsorships, naming rights, or other advertising or similar considerations for which competition is not feasible.* ~~Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions.~~

(3) Insofar as it is practical, no ~~fewer~~~~[less]~~ than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.

(4) Competitive bids may not be required:

- (a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;
- (b) Where rates are fixed by law or ordinance;
- (c) For library books;
- (d) For commercial items that are purchased for resale;
- (e) For interests in real property;
- (f) For visiting speakers, professors, expert witnesses, and performing artists;
- (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and
- (h) For agricultural products in accordance with KRS 45A.645.

~~(5)~~~~(2)~~ The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

~~(6)~~~~(3)~~ ~~An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics,~~

~~riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.~~

- (4)} The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

➔Section 7. KRS 45A.810 is amended to read as follows:

- (1) (a) One (1) or more architectural services selection committees and one (1) or more engineering or engineering-related services selection committees shall be created in the Finance and Administration Cabinet.
- (b) One (1) or more engineering and engineering-related services selection committees shall be created in the Transportation Cabinet.
- (2) Except when an emergency *condition* exists as defined by *subsection (1)(a) of Section 6 of this Act*~~KRS 45A.095(3)}~~, when architectural, engineering, or engineering-related services are procured under KRS 45A.837 and 45A.838, or when the project is constructed under KRS 45A.045(11)(a) or (b):
 - (a) An architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring architectural services;
 - (b) An engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services; and
 - (c) An engineering and engineering-related services selection committee created in the Transportation Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services.
- (3) An architectural services selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified within each paragraph:
 - (a) Two (2) architects. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) architects who are employees of the cabinet. At least three (3) of the architects shall be merit employees of the cabinet. The secretary, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select architects from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;
 - (b) One (1) or more additional employees of the Department for Facilities Management, appointed by the commissioner of the Department for Facilities Management, to serve as a nonvoting technical adviser for a given project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project.
 - (c) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;
 - (d) An individual. The Kentucky Society of Architects shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the

Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee;

- (e) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and
 - (f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each architectural firm appointed to provide architectural services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (4) The engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:
- (a) Two (2) engineers. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;
 - (b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;
 - (c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee;
 - (d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding;
 - (e) One (1) or more additional employees of the Department for Facilities Management to serve as nonvoting technical adviser for a specific project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project; and
 - (f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (5) The engineering and engineering-related services selection committee created in the Transportation Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:
- (a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a pool of six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

- (b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency. However, if two (2) user divisions have approximately equal responsibilities or separate responsibilities for the project, each user division head shall appoint one (1) member to the selection committee;
 - (c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Transportation Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee;
 - (d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and
 - (e) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Highways shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (6) (a) All selection committee members shall have experience which qualifies them to serve on the committee.
- (b) The same appointment procedures set out in this section apply to any user agency or user division listed in subsection (3), (4), or (5) of this section that does not operate under a merit system.
- (c) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed to succeed himself. He shall serve until his successor is appointed and qualified. A successor or a replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee. If a selection committee member, drawn from a pool, leaves a selection committee, his replacement shall be drawn from the pool in the same manner as he. The replacement shall have the merit or nonmerit status of his predecessor.
- (d) Any individual appointed by the Auditor of Public Accounts to serve on selection committees shall serve an initial one (1) year term and may be reappointed to succeed himself. He shall serve until his successor is appointed and qualified. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.
- (e) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

Signed by Governor April 11, 2017.

CHAPTER 176

(HB 482)

AN ACT amending the 2016-2018 executive branch biennial budget, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby appropriated to Economic Development supplemental General Fund moneys in the amount of \$641,000 in fiscal year 2017-2018 for new debt service to support up to \$15,000,000 in new bonds for the Kentucky Economic Development Finance Authority Loan Pool. At the discretion of the Kentucky Economic

Development Partnership, in lieu of Bond Funds, funds in an amount not to exceed \$15,000,000 may be appropriated from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). These funds shall be used to support programs administered by the Kentucky Economic Development Finance Authority for the sole purpose of facilitating a private sector investment of not less than \$1,000,000,000 in one or more locations in the Commonwealth. This authorization shall expire on June 30, 2018, if the private sector investment has not commenced prior to that date.

➔Section 2. 2016 Kentucky Acts Chapter 149, Part I, Operating Budget; D. Education and Workforce Development Cabinet; 8. Employment and Training, at page 1066, is amended to read as follows:

8. EMPLOYMENT AND TRAINING

| | 2016-17 | 2017-18 |
|------------------|-------------|-------------|
| Restricted Funds | 18,002,300 | 22,037,500 |
| Federal Funds | 689,594,500 | 694,504,400 |
| TOTAL | 707,596,800 | 716,541,900 |

(1) **Unemployment Compensation Administration Fund:** Notwithstanding KRS 341.240 and 341.295, funds from the Unemployment Compensation Administration Fund may be used each fiscal year to support the Wagner-Peyser program.

(2) **Office of Employment Training Building Proceeds Fund:** *There is hereby established within the Education and Workforce Development Cabinet the Office of Employment Training Building Proceeds Fund for the support of workforce operations. Notwithstanding KRS 45.229, any fund balance at the close of fiscal year 2016-2017 shall not lapse but shall be carried forward to the next fiscal year. Pursuant to KRS 45.229, any fund balance at the close of fiscal year 2017-2018 shall lapse to the surplus account of the General Fund.*

(3) **Real Property Disposal:** *Notwithstanding KRS 45.777, up to \$3,500,000 of proceeds from the disposal under KRS 45A.045 of any state-owned real property operated by the Office of Employment and Training shall be deposited in the Office of Employment Training Building Proceeds Fund.*

➔Section 3. 2016 Kentucky Acts Chapter 149, Part II, Capital Projects Budget; B. Economic Development Cabinet; 1. Economic Development, at page 1100, is amended to read as follows:

1. ECONOMIC DEVELOPMENT

001. Economic Development Bond Program - 2016-2018

| | | |
|------------|-----|-----------|
| Bond Funds | -0- | 7,000,000 |
|------------|-----|-----------|

002. High-Tech Construction/Investment Pool - 2016-2018

| | | |
|------------|-----|-----------|
| Bond Funds | -0- | 7,000,000 |
|------------|-----|-----------|

003. Kentucky Economic Development Finance Authority Loan Pool - 2016-2018

| | | |
|------------|-----|-----------------------------------|
| Bond Funds | -0- | 22,000,000 [7,000,000] |
|------------|-----|-----------------------------------|

(1) **Source of Funds:** *At the discretion of the Kentucky Economic Development Partnership, in lieu of Bond Funds, funds in an amount not to exceed \$15,000,000 may be appropriated from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).*

➔Section 4. Whereas the provisions of this Act provide ongoing support for programs funded in the 2016-2018 executive branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 11, 2017.

AN ACT to revise and correct the Kentucky Revised Statutes.

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

PART A

LEGISLATIVE FINDINGS AND DECLARATIONS

➔Section 1. The General Assembly finds and declares as follows:

(1) Section 2 of this Act amends KRS 311.685, relating to the practice of acupuncture. KRS 311.685 was created in 2006 Ky. Acts ch. 249, sec. 15, as part of the initial statutory regulation of the practice of acupuncture. However, the drafter of that Act had inadvertently included in subsection (7) of that section a reference to the "practice of medicine" in the second sentence of that subsection. The reviser of statutes has determined from the context that the reference should have instead read "practice of acupuncture," but that change in language is not a manifest clerical or typographical error the reviser is authorized to independently correct under KRS 7.136(1)(h).

(2) Section 3 of this Act amends KRS 343.020, relating to the membership of the Apprenticeship and Training Council. Prior to its amendment in 2014, subsection (2)(a) of KRS 343.020 established staggered lengths of terms for the first appointments of members of the initial Council, and subsection (2)(b) of KRS 343.020 began, "Subsequent members shall serve terms of four (4) years.....," referring to members appointed after the initial terms expired. When subsection (2)(a) was amended in 2014, the language establishing staggered initial terms was deleted; however, the word "Subsequent" in subsection (2)(b) should have been deleted to conform, but was not.

(3) Section 4 of this Act amends KRS 134.452, relating to third-party purchasers of certificates of delinquency of real property taxes. 2014 Ky. Acts ch. 71, sec. 6, amended subsection (1) of that statute to correct improper formatting and replace an incorrect reference to "paragraph (a) of this subsection" with "subdivision a. of this subparagraph" in what is now subsection (1)(c)2.b. of that statute. During codification, it was brought to the attention of the reviser of statutes that a second reference to "paragraph (a)" in subsection (1)(c)3.a. of that statute should have also been corrected to read "subparagraph 2.a. of this paragraph", but it was not. The reviser of statutes has determined that changing that language to conform with the correct reference is necessary, but that it is not a manifest clerical or typographical error the reviser is authorized to independently correct under KRS 7.136(1)(h).

(4) Section 5 of this Act amends KRS 154.33-510, relating to definitions concerning the use of the Kentucky Appalachian regional development fund. The lead-in language for that statute that precedes the list of definitions is, "As used in KRS 154.33-501 to 154.33-585, unless the context otherwise requires:". The range of statutes KRS 154.33-501 to 154.33-585 was composed of 22 statutes; however, 16 of those statutes were repealed in 2015 in 2015 Ky. Acts ch. 58, sec. 7. Therefore, the reference to the depleted range of statutes is no longer appropriate, and should now read, "As used in this subchapter, unless the context otherwise requires:".

(5) Section 6 of this Act amends KRS 243.200, relating to an alcoholic beverage transporter's license. As amended by 2014 Ky. Acts ch. 22, sec. 14, subsection (9)(b) of that statute contains an erroneous reference to "residence requirements" of KRS 244.090. Although certain licensees were previously prohibited from employing any person who "has not had an actual bona fide residence in this Commonwealth for at least one (1) year" or "is not a citizen of the United States," the General Assembly removed the state residency requirement from the statute in 1978 Ky. Acts ch. 194, sec. 19, and the national citizenship requirement in 1998 Ky. Acts ch. 522, sec. 20. Therefore, the reference to KRS 244.090 concerning residency requirements is obsolete. The remaining reference to KRS 243.100 is correct.

(6) Section 7 of this Act amends KRS 402.100, relating to marriage licenses. In subsection (2)(b) of that statute, there is an incomplete, and, therefore, incorrect reference to "KRS 402.050(c)" regarding religious societies authorized to solemnize marriages. KRS 402.050, subsection (1), contains the list of persons authorized to solemnize marriage, so the incorrect cite to "KRS 402.050(c)" should be corrected to read "KRS 402.050(1)(c)."

(7) Section 8 of this Act repeals KRS 158.650, 158.680, 158.685, and 158.710, which were enacted in 1990 as part of the Kentucky Education Reform Act, and contained the initial phase of temporary reform remedies that were designated to expire in 1996. Since the provisions of those statutes expired in 1996 and have not been followed since, it is now appropriate to remove them from the statutory database by repealing them.

(8) Sections 9 and 10 of this Act contain amendments to KRS 156.160 and 160.107 to conform with the repeal of KRS 158.685 by deleting references to that statute number in other statutory text.

PART B

CORRECTION OF INADVERTENT DRAFTING ERRORS IN STATUTORY TEXT

➔Section 2. KRS 311.685 is amended to read as follows:

- (1) The board, before suspending, revoking, imposing probationary or supervisory conditions upon a licensed acupuncturist, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensed acupuncturist under KRS 311.671 to 311.686, shall set the matter for a hearing under the provisions of KRS Chapter 13B.
- (2) After denying an application under KRS 311.671 to 311.686 or issuing a written admonishment, the board, at the request of the aggrieved party, shall grant a hearing under the provisions of KRS Chapter 13B.
- (3) Except for final orders denying an initial application or renewal for licensure or final orders issued pursuant to KRS 13B.125(3), all final orders of the board affecting an acupuncturist's license shall become effective thirty (30) days after notice is given to the license holder unless otherwise agreed; however, the board's panels may provide that a final order be effective immediately when, in the panel's opinion, based upon sufficient reasonable cause, the health, welfare, and safety of patients or the general public would be endangered by delay.
- (4) Any acupuncturist who is aggrieved by a final order of the board denying an initial or renewal application for licensure or rendering disciplinary action against a license holder may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B. Decisions of the board's panels relating to petitions for reinstatement of revoked licenses are not final orders for purposes of this statute, and are not subject to judicial review.
- (5) The court shall not award injunctive relief against the board without providing the board with the reasonable opportunity to be heard.
- (6) An acupuncturist whose license has been revoked may, after five (5) years from the effective date of the revocation order, petition the board to reissue the license to again practice acupuncture in the Commonwealth of Kentucky.
- (7) The board shall not be required to issue a new license, and a decision of the board not to reissue a license shall not be subject to judicial review. A license shall not be reissued following a petition under subsection (6) of this section unless the former license holder satisfies the board that he or she is presently of good moral character and qualified both physically and mentally to resume the practice of ~~acupuncture~~~~medicine~~ without undue risk or danger to patients or the public.
- (8) In the event the board reissues a revoked license under the circumstances as described in this section, the reissued license shall be under probation for a period of not less than two (2) years nor more than five (5) years with conditions fixed by the board, including a condition that any violation of the remaining conditions of probation shall result in automatic revocation of the license.

➔Section 3. KRS 343.020 is amended to read as follows:

- (1) (a) The Governor shall appoint an Apprenticeship and Training Council composed of four (4) representatives from employer organizations, four (4) representatives from employee organizations, and three (3) at-large members who shall serve for a term of four (4) years and until their successors are appointed and qualified. The commissioner of the Department of Workplace Standards, the commissioner of the Department for Workforce Investment, and the chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council.
- (b) The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of the Department of Workplace Standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his or her actual and necessary expenses incurred in attending its meetings.
- (c) The council shall meet at the call of the commissioner and shall aid him or her in formulating policies for the effective administration of this chapter. The commissioner with the advice of the council shall have the authority to make and revise such rules and regulations as he or she may deem appropriate to carry out the provisions and purposes of this chapter.
- (2) (a) On July 15, 2014, the term of the at-large members appointed on December 31, 2011, shall expire, and the Governor shall appoint three (3) at-large members representing the general public to the Apprenticeship and Training Council.

- (b) ~~[Subsequent]~~ Members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.
- (3) The council shall be attached to the Labor Cabinet for administrative purposes.

PART C

CORRECTION OF IMPROPER IN-TEXT STATUTORY REFERENCES

➔Section 4. KRS 134.452 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a certificate of delinquency shall be entitled to collect only the following prelitigation fees:
 - (a) The amount actually paid for the certificate of delinquency;
 - (b) Interest as provided in KRS 134.125, calculated on the amount actually paid to the county clerk from the date the certificate of delinquency was purchased until paid; and
 - (c)
 - 1. Prelitigation attorneys' fees, which may include amounts incurred for collection efforts and costs related to notification, processing, research, communication, compliance, legal costs, documentation, and similar expenses, from the date the third-party purchaser purchases the certificate of delinquency from the county clerk, to the date on which the notice required by KRS 134.490(2) is mailed by the third-party purchaser.
 - 2. The amount that may be collected by the third-party purchaser as prelitigation attorneys' fees shall be subject to the following limitations:
 - a.
 - i. If the amount paid for a certificate of delinquency is between five dollars (\$5) and three hundred fifty dollars (\$350), actual reasonable fees incurred up to one hundred percent (100%) of the amount of the certificate of delinquency, not to exceed three hundred fifty dollars (\$350);
 - ii. If the amount paid for a certificate of delinquency is between three hundred fifty-one dollars (\$351) and seven hundred dollars (\$700), actual reasonable fees incurred up to eighty percent (80%) of the amount of the certificate of delinquency, not to exceed five hundred sixty dollars (\$560); and
 - iii. If the amount paid for a certificate of delinquency is above seven hundred one dollars (\$701), actual reasonable fees incurred up to seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars (\$700); and
 - b. If a third-party purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable prelitigation attorneys' fees for all certificates of delinquency against the same taxpayer shall not exceed one and one-half (1.5) times the maximum amount permitted in subdivision a. of this subparagraph for the largest tax bill owed by the taxpayer.
 - 3. The amounts allowed by subparagraph 2. of this paragraph shall not accrue to the account of the delinquent taxpayer, nor be charged by the third-party purchaser against the delinquent taxpayer all at one (1) time unless the amount of certificate of delinquency is one hundred seventy-five dollars (\$175) or less. The third-party purchaser may accrue to the account of the delinquent taxpayer, and charge the delinquent taxpayer an amount equal to the lesser of prelitigation attorney's fees incurred by the third-party purchaser since the prior notice was sent or one hundred seventy-five dollars (\$175), for each notice sent to the delinquent taxpayer, provided that:
 - a. The total aggregate amount of prelitigation attorneys' fees that may accrue to the account of the delinquent taxpayer and be charged by the third-party purchaser against the delinquent taxpayer shall not exceed the limitations established by *subparagraph 2.a. of this paragraph*~~[(a) of this subsection]~~; and
 - b. Additional fees shall not accrue to the account of the delinquent taxpayer or be charged by the third-party purchaser against the delinquent taxpayer more frequently than every ninety (90) days, regardless of how many notices the third-party purchaser may send.

- (2) If the delinquent taxpayer and the third-party purchaser enter into a payment agreement, the third-party purchaser may collect the installment payment processing fee authorized by KRS 134.490(5).
- (3) (a) In addition to the fees established by subsections (1), (2), and (4) of this section, a third-party purchaser may collect actual, reasonable attorneys' fees and costs that arise due to the prosecution of collection remedies or the protection of a certificate of delinquency that is involved in litigation. Fees and costs permitted under this subsection include fees and costs incurred from the first day after the notice required by KRS 134.490(2) is sent through the day any litigation is finally concluded.
- (b) For purposes of this subsection:
 - 1. Actual attorneys' litigation fees up to two thousand dollars (\$2,000) may be reasonable if the fees are based upon documented work performed at a rate commensurate with hourly rates customarily charged by private attorneys in that jurisdiction for similar services. A flat rate, without hours documented for work performed, may be reasonable if the flat fee is determined to be discounted from the usual and customary rates for comparable work; and
 - 2. Any attorneys' litigation fee in excess of two thousand dollars (\$2,000) shall be allowed if authorized by the court upon a finding that the third-party purchaser incurred actual attorneys' litigation fees in excess of two thousand dollars (\$2,000) and that those attorneys' litigation fees were warranted based upon the complexity of the issues presented in the litigation.
- (4) The third-party purchaser may collect administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred fifteen dollars (\$115).
- (5) The General Assembly recognizes that third-party purchasers play an important role in the delinquent tax collection system, allowing taxing districts to receive needed funds on a timely basis. The General Assembly has carefully considered the fees and charges authorized by this section, and has determined that the amounts established are reasonable based on the costs of collection and fees and charges incurred in litigation.
- (6) A certificate of delinquency owned by a third-party purchaser shall be deemed a general intangible for the purposes of Article 9 of KRS Chapter 355.

➔Section 5. KRS 154.33-510 is amended to read as follows:

As used in *this subchapter* ~~[KRS 154.33-501 to 154.33-585]~~, unless the context otherwise requires:

- (1) "Area" or "region" means the geographical area of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended;
- (2) "Board" means the executive board of Shaping Our Appalachian Region, Inc., a Kentucky nonprofit 501(c)(3) corporation created and organized, as of June 24, 2015, to advance and promote a resilient and diverse eastern Kentucky by providing leadership, vision, and collaborative partnerships to support innovative regional practices and enhance public and private investments in areas such as job creation, entrepreneurship, tourism, education and lifelong learning, health and wellness, arts and heritage, and sustainable agricultural practices and food systems;
- (3) "Commissioner" means the commissioner of the Department for Local Government;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Executive director" means the chief administrator of Shaping Our Appalachian Region, Inc. having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board;
- (6) "Fund" means the Kentucky Appalachian regional development fund as provided by KRS 154.33-550.

➔Section 6. KRS 243.200 is amended to read as follows:

- (1) (a) A transporter's license may be issued as a primary license to a person engaged in business as a common carrier. A transporter's licensee may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.
- (b) A transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of a common carrier. Holders of a transporter's license issued under this section may transport alcoholic beverages in Kentucky only in

conformity with the provisions of their common carrier certificate issued by the Transportation Cabinet. Such licensees are specifically prohibited from transporting alcoholic beverages anywhere within the state, except upon the route authorized by their respective common carrier certificates.

- (a) No person, firm, or corporation operating motor vehicles for hire over the highways of this state, under authority of a Certificate of Convenience and Necessity issued by the Transportation Cabinet, covering the same territory or highways designated in the certificate as irregular common carrier issued by the Interstate Commerce Commission shall be authorized or permitted to transport any alcoholic beverages in this state until the carrier has procured an appropriate transporter's license from the department, and filed with the department a statement of the proposed route of the territory over which the carrier proposes to transport alcoholic beverages.
 - (b) The statement of route shall be accompanied by an exhibit consisting of a Kentucky road map with the proposed route clearly indicated by suitable marking.
 - (c) The proposed route shall be restricted to designated federal highways, except as to access side roads to distilleries and terminals. The side roads shall be the nearest and most traveled route from the distillery to the designated federal highway, and shall be no more than seven (7) miles from the federal highway.
 - (d) When the carrier has obtained a transporter's license for distilled spirits and wine from the department for transportation over designated routes, pursuant to a regular common carrier certificate, no additional license shall be required upon filing of the designated routes and exhibit required under this section.
 - (e) The license shall be issued to a person legally transporting alcoholic beverages to allow transportation of the beverages over numbered Kentucky state highways, or officially prescribed detours from those highways.
- (3) A transporter's license may be issued to a steam, diesel, or gasoline boatline, desiring to haul alcoholic beverages in barrels or in unbroken case lots, if it maintains published river-rail rates, but licensees shall not be restricted to routes covered by such river-rail rates.
- (4) A transporter's license may be issued as a primary or supplementary license to any nonresident distiller, winery, or wholesaler who is authorized by the state of his or her residence and the federal government to receive and transport distilled spirits and wine. The nonresident licensee may transport for himself or herself only, distilled spirits and wine from the licensed premises of a Kentucky manufacturer, distiller, winery, or rectifier to the transporter's licensed premises only, and beverages on which the Kentucky tax has been paid may be transported from the licensed premises of a nonresident distiller, winery, or rectifier to wholesaler licensees within the Commonwealth of Kentucky, if he or she transports the alcoholic beverages in a truck or other vehicle owned and operated by a nonresident licensee. Each truck or vehicle shall have affixed to its side a sign in uniform letters of at least three (3) inches high containing the name of the company and the state and federal permit numbers for the vehicles.
- (5) An application for a transporter's license shall include a statement that the applicant, if granted a license, will allow any authorized field representative of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.
- (6) All persons or entities holding a transporter's license shall be required to file reports with the Department of Revenue on or before the fifteenth of each month, covering the preceding month's transactions. Only one (1) report may be submitted to cover each unit shipment of alcoholic beverages transported into and from the state. Each Department of Revenue report shall show the state license number, the name and address of consignor and consignee, shipping date, delivery date, and number of cases according to size contained in each shipment, and shall be signed by an official of the company handling the shipment.
- (7) A transporter's license may be issued as a primary license to a person or entity wishing to transport distilled spirits and wine through this state over the public highways. A transporter's license authorizes the holder to transport distilled spirits and wine during the period of the license. The driver of a vehicle so transporting shall be in the possession of a copy of the license and bills of lading, consignment, or other evidence of ownership of the cargo which tally with the cargo. Failure of the driver to be in possession of these documents shall be prima facie evidence of illegal trafficking. The transporting of distilled spirits and wine without a transporter's license shall subject the offending party to the penalties established in KRS 243.990.
- (8) A transporter's license may be issued as a primary license to a person wishing to transfer distilled spirits or wine from a licensed transporter to one (1) truck from another. The licensee may receive from and tender to

transporters duly licensed under this section those distilled spirits and wine consigned to licensees under KRS 243.020, in the Commonwealth of Kentucky.

- (9) (a) A transporter's license may be issued as a primary license to a person or entity wishing to export malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of a licensed Kentucky distributor, or from another state, through Kentucky. A transporter's license may be issued to an applicant who holds a beer wholesaler or distributor's license issued by the state into which malt beverages are to be transported, or who is licensed by the state to transport those malt beverages.
- (b) Applicants for the transporter's license under this subsection, and their employees, may be exempt from the residence requirements of KRS 243.100 ~~and 244.090~~.
- (c) A transporter's license shall authorize the holder to transport malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of the licensed Kentucky distributor, or from another state, through Kentucky, if the licensee transports the malt beverages in a truck or other vehicle carrying a transporter's license and owned and operated by its employees.
- (10) A transporter's license may be issued as a primary or supplemental license to a person, except a retailer, wishing to transport malt beverages for hire. A transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee, except retailers, if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the malt beverages. A transporter licensee may transport malt beverages for hire to or from the licensed premises of any licensee under KRS 243.040 in counties containing a population of less than forty thousand (40,000) if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the malt beverages.
- (11) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.
- (12) Distilled spirits and wine may be transported by the holder of any license authorized to transport distilled spirits and wine to and from express or freight depots and the licensee's premises.
- (13) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- (14) Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

➔Section 7. KRS 402.100 is amended to read as follows:

Each county clerk shall make available to the public the form prescribed by the Department for Libraries and Archives for the issuance of a marriage license. The department shall issue a marriage license form which provides for the entering of information identifying each party as a "bride," "groom," or "spouse." This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

- (1) A marriage license which provides for the entering of:
 - (a) An authorization statement for any person or religious society authorized to perform marriage ceremonies to unite in marriage the parties named;
 - (b) Vital information for each party, including the full name, date of birth, place of birth, race, gender, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, and full names of parents;
 - (c) A statement signed by both parties swearing that, to the best of their knowledge, the information provided on the form is correct; and
 - (d) The date and place the application was made.

- (2) A marriage certificate which provides for the entering of:
 - (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;
 - (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(I)(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;
 - (c) The printed name and dated signature of the person performing the ceremony; and
 - (d) A signed statement indicating that the marriage certificate was recorded in the county in which it was filed. The statement shall also include the title of the county clerk or deputy clerk of the county in which the certificate was filed and indicate the date the marriage certificate was recorded.
- (3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:
 - (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses; and
 - (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.
- (4) A Social Security card or other government-issued identification card shall be requested as a means of identification of each party but the number shall not be recorded or retained.

PART D

REPEAL OF STATUTES WHOSE PROVISIONS EXPIRED IN 1996

➔Section 8. The following KRS sections are repealed:

- 158.650 Definitions for KRS 158.680 to 158.710. (Expired)
- 158.680 State Advisory Committee for Educational Improvement. (Expired)
- 158.685 Standards of student, program, service, and operational performance to be established -- Educationally deficient school district -- Action to eliminate deficiency -- Education development district. (Expired)
- 158.710 Responsibilities and functions of educationally deficient districts and education development districts -- Plans required -- Reports required. (Expired)

PART E

AMENDMENT OF STATUTES TO CONFORM WITH REPEAL OF KRS 158.685

➔Section 9. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:

1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
- (b) Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in KRS 158.845;
- (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
- (d) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
- (e) The requirements for an alternative high school diploma for students with disabilities whose individualized education program indicates that, in accordance with 20 U.S.C. sec. 1414(d)(1)(A):
1. The student cannot participate in the regular statewide assessment; and
 2. An appropriate alternate assessment has been selected for the student based upon a modified curriculum and an individualized course of study;
- (f) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
- (g) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
- (h) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
- (i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
- (j)
1. Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced practice registered nurse, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school.
 2. A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;

- (k) The transportation of children to and from school;
 - (l) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
 - (m) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
 - (n) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
 - (o) The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
- 1. An alternative approach will achieve the same result required by the administrative regulation;
 - 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 - 3. There is a finding of good cause for the waiver.
- (b) The following shall not be subject to waiver:
- 1. Administrative regulations relating to health and safety;
 - 2. Administrative regulations relating to civil rights;
 - 3. Administrative regulations required by federal law; and
 - 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, ~~158.685~~, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
- (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 10. KRS 160.107 is amended to read as follows:

- (1) A district which is an applicant to be designated as a district of innovation under KRS 156.108 shall:
 - (a) Establish goals and performance targets for the district of innovation proposal, which may include:

1. Reducing achievement gaps among groups of public school students by expanding learning experiences for students who are identified as academically low-achieving;
 2. Increasing pupil learning through the implementation of high, rigorous standards for pupil performance;
 3. Increasing the participation of students in various curriculum components and instructional components within selected schools to enhance students' preparation at each grade level;
 4. Increasing the number of students who are college and career-ready; and
 5. Motivating students at different grade levels by offering more curriculum choices and student learning opportunities to parents and students within the district;
- (b) Identify changes needed in the district and schools to lead to better-prepared students for success in life and work;
 - (c) Have a district-wide plan of innovation that describes and justifies which schools and innovative practices will be incorporated;
 - (d) Provide documentation of community, educator, parental, and the local board's support of the proposed innovations;
 - (e) Provide detailed information regarding the rationale of requests for waivers from Kentucky Revised Statutes and administrative regulations, and exemptions for selected schools regarding waivers of local board of education policies;
 - (f) Document the fiscal and human resources the board will provide throughout the term of the implementation of the innovations within its plan; and
 - (g) Provide other materials as required by the Kentucky Department of Education in compliance with the state board's administrative regulations and application procedures.
- (2) The district and all schools participating in a district's innovation plan shall:
 - (a) Ensure the same health, safety, civil rights, and disability rights requirements as are applied to all public schools;
 - (b) Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;
 - (c) Ensure that high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation or meet early graduation requirements that may be enacted by the General Assembly;
 - (d) Ensure the student performance standards meet or exceed those adopted by the Kentucky Board of Education~~as required by KRS 158.685~~, including compliance with the statewide assessment system specified in KRS 158.6453;
 - (e) Adhere to the same financial audits, audit procedures, and audit requirements as are applied under KRS 156.265;
 - (f) Require state and criminal background checks for staff and volunteers as required of all public school employees and volunteers within the public schools and specified in KRS 160.380 and 161.148;
 - (g) Comply with open records and open meeting requirements under KRS Chapter 61;
 - (h) Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480;
 - (i) Provide overall instructional time that is equivalent to or greater than that required under KRS 158.070, but which may include on-site instruction, distance or virtual learning, and work-based learning on nontraditional school days or hours; and
 - (j) Provide data to the Kentucky Department of Education as deemed necessary to generate school and district reports.
 - (3) (a) Only schools that choose to be designated as schools of innovation shall be included in a district's application.

- (b)
 - 1. As used in this paragraph, "eligible employees" means employees that are regularly employed at the school and those employees whose primary job duties will be affected by the plan.
 - 2. A vote shall be taken among eligible employees in a school to determine if the school shall be an applicant as a school of innovation in a district's proposal and to approve the school's plan of innovation before it is submitted to the district. At least seventy percent (70%) of those casting votes shall vote in the affirmative in order for the school to request inclusion in the district's plan and to approve the school's plan of innovation.
 - 3. The school-based decision making council shall be responsible for conducting the vote provided for in subparagraph 2. of this paragraph, which shall be by secret ballot.
- (c) Notwithstanding the provisions of paragraph (a) of this subsection, a local board of education may require a school that has been identified as a persistently low-achieving school under KRS 160.346 to participate in the district's plan of innovation.
- (4)
 - (a) With approval of the state board, a school of innovation may request and be granted waivers from all or selected provisions of KRS 160.345 relating to school-based decision making.
 - (b) To be exempt from KRS 160.345, a school-based decision making council shall vote by secret ballot to determine if it wishes to request a waiver from KRS 160.345 or specific provisions within that statute. Only a school that has seventy percent (70%) or more of the teachers and staff in the school voting to waive its rights and responsibilities under KRS 160.345 shall be eligible.
 - (c) No local board of education or superintendent nor the Kentucky Board of Education may compel a school to waive its rights under KRS 160.345, except as provided in KRS 160.346.
 - (d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of Education for a specific school, there shall be assurances that teachers, parents, and staff in the affected school will be actively involved in the management and decision-making operations of the schools, including input into employment matters and selection of personnel.
- (5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may approve the requests of districts of innovation to:
 - (a) Use capital outlay funds for operational costs;
 - (b) Hire persons for classified positions in nontraditional school and district assignments who have bachelor's and advanced degrees from postsecondary education institutions accredited by a regional accrediting association as defined in KRS 164.740;
 - (c) Employ teachers on extended employment contracts or extra duty contracts and compensate them on a salary schedule other than the single salary schedule;
 - (d) Extend the school days as is appropriate within the district with compensation for the employees as determined locally;
 - (e) Establish alternative education programs and services that are delivered in nontraditional hours and which may be jointly provided in cooperation with another school district or consortia of districts;
 - (f) Establish a virtual school within the district for delivering alternative classes to meet high school graduation requirements;
 - (g) Use a flexible school calendar;
 - (h) Convert existing schools into schools of innovation; and
 - (i) Modify the formula under KRS 157.360(2) for distributing support education excellence in Kentucky funds for students in average daily attendance in nontraditional programming time, including alternative programs and virtual programs. Funds granted to a district shall not exceed those that would have otherwise been distributed based on average daily attendance during regular instructional days.

Signed by Governor April 11, 2017.

CHAPTER 178

(HB 443)

AN ACT relating to reorganization, making an appropriation therefor, and declaring an emergency.

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

➔SECTION 1. KRS CHAPTER 324B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

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

- (1) *"Authority" means the Kentucky Real Estate Authority;*
- (2) *"Cabinet" means the Public Protection Cabinet;*
- (3) *"Commissioner" means the commissioner of the Department of Professional Licensing;*
- (4) *"Department" means the Department of Professional Licensing;*
- (5) *"Executive director" means the executive director of the Kentucky Real Estate Authority; and*
- (6) (a) *"Real property board" means:*
 1. *Kentucky Board of Home Inspectors, established under KRS 198B.700 to 198B.738;*
 2. *Kentucky Real Estate Commission, established under KRS Chapter 324;*
 3. *Real Estate Appraisers Board, established under KRS Chapter 324A; or*
 4. *Board of Auctioneers, established under KRS Chapter 330; and*
- (b) *"Real property boards" means a combination of all the boards listed in paragraph (a) of this subsection.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO READ AS FOLLOWS:

The Department of Professional Licensing is hereby created within the Public Protection Cabinet. The department shall be managed by a commissioner, who shall be appointed by the Governor.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Real Estate Authority is hereby created within the Department of Professional Licensing.*
- (2) *The authority shall be managed by an executive director, who shall be appointed by the secretary of the Public Protection Cabinet with prior written approval from the Governor. The executive director shall be exempted from the classified service.*
- (3) *The authority shall have the power and authority to:*
 - (a) *Provide appropriate personnel staffing and administrative support to the real property boards;*
 - (b) *Establish and maintain an office, meeting space, office supplies, furniture, storage space, and any other supplies that are necessary to carry out the duties of the authority and the real property boards;*
 - (c) *Make available for public inspection all decisions, opinions, and interpretations formulated or used by the authority and the real property boards in discharging their functions;*
 - (d) *Publicize the functions and purposes of the authority and the real property boards;*
 - (e) *Employ administrative coordinators who shall carry out the administrative functions and day-to-day operations of the real property boards. The maximum number of administrative coordinators shall be one (1) for each real property board. Administrative coordinators shall be exempted from the classified service;*
 - (f) *Enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to assist with implementation of the duties and responsibilities of the authority or, upon request, the real property boards; and*
 - (g) *Charge the real property boards a reasonable amount for the services of the authority and its employees.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 324B IS CREATED TO READ AS FOLLOWS:

The executive director shall:

- (1) *Provide government oversight of the real property boards;*
- (2) *Review and approve or disapprove any administrative regulation proposed by the real property boards prior to the promulgation of the administrative regulation;*
- (3) *Review and approve or disapprove the budgets and expenditures of the real property boards;*
- (4) *Pursuant to KRS 13B.120(7), automatically hear and issue a final order regarding any decision of a real property board that would otherwise be subject to appeal. An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides;*
- (5) *Make available for public inspection all decisions, opinions, and interpretations formulated or used by the executive director in discharging his or her functions;*
- (6) *Carry out the policy and program directives of the department;*
- (7) *Prepare annual reports on the executive director's activities;*
- (8) *Delegate any power to employees and contractors as needed;*
- (9) *Have at least ten (10) years of experience in one (1) of the professions under the jurisdiction of a real property board; and*
- (10) *Perform all other duties assigned by law.*

➔Section 5. KRS 224.10-052 is repealed, reenacted as a new section of KRS Chapter 324B, and amended to read as follows:

- (1) The **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ in the Public Protection Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the Kentucky Board of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and **any**~~[such]~~ other boards and commissions **that**~~[as]~~ are created to license, certify, register, or otherwise regulate any occupational or professional category.
- (2) The **department**~~[office]~~ may also provide administrative services to a board or commission that is created to license, certify, register, or otherwise regulate any occupational or professional category if these administrative services are deemed to be preferable or required after the review process conducted under **Section 6 of this Act**~~[KRS 224.10-053]~~.
- (3) To the extent that the **department**~~[office]~~ provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The **department**~~[office]~~ shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The **department**~~[office]~~ may employ persons previously employed by boards or commissions.
- (4) The **department**~~[office]~~ may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the **department**~~[office]~~ for administrative purposes. The **department**~~[office]~~ shall cause **these**~~[such]~~ complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The **department**~~[office]~~ shall keep a record of all complaints received by it and forwarded to a board or commission.

- (5) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

➔Section 6. KRS 224.10-053 is repealed, reenacted as a new section of KRS Chapter 324B, and amended to read as follows:

- (1) As used in this section, "independent board or commission" means an executive branch agency created by statute that serves the primary purpose of licensing, certifying, registering, or otherwise regulating any occupational or professional category. "Independent board or commission" does not include:
- (a) An executive branch board or commission that is a part of another executive branch agency;
 - (b) Any board or commission that is under the authority or jurisdiction of the General Assembly or the judicial branch; or
 - (c) Any board or commission within any branch of state government if that board or commission is expressly designed to:
 1. Study, report, or make recommendations regarding a particular issue; or
 2. Expire within a time certain.
- (2) Any independent board or commission that is created after July 15, 2010, shall use the administrative services of the **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ as described under **Section 5 of this Act**~~[KRS 224.10-052]~~ unless that board or commission can reasonably demonstrate to the satisfaction of the ~~department~~~~[division]~~ that it will license, certify, register, or otherwise regulate at least one hundred (100) persons. If the board or commission is able to initially demonstrate that it will reach the threshold established in this subsection and then fails to license, certify, register, or otherwise regulate at least one hundred (100) persons at the end of any two (2) consecutive fiscal years, that board or commission shall be subject to the process required in subsection (4) of this section.
- (3) Any independent board or commission that was created before July 15, 2010, shall undergo the process required in subsection (4) of this section if that board or commission licenses, certifies, registers, or otherwise regulates less than one hundred (100) persons at the end of any two (2) consecutive fiscal years ending on or after June 30, 2010.
- (4) (a) If an independent board or commission fails to regulate one hundred (100) or more persons for two (2) consecutive fiscal years as described in subsections (2) and (3) of this section, that board or commission shall submit a report within ninety (90) days after the close of the second of the two (2) fiscal years to the **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ and to the Interim Joint Committee on Licensing and Occupations of the Legislative Research Commission or to the corresponding standing committees of the General Assembly. The report shall contain, at a minimum:
1. The number of persons licensed, certified, registered, or otherwise regulated by the board or commission at the close of each of the two (2) fiscal years;
 2. A detailed accounting of the revenues, fees collected, board or commission member reimbursements or per diems, staff salaries, costs, expenses, and other financial activities of the board or commission for each of the two (2) fiscal years; and
 3. The board or commission's plan to:
 - a. Increase the number of persons it licenses, certifies, registers, or otherwise regulates to one hundred (100) or more persons;
 - b. Merge with one (1) or more other boards, commissions, or other governmental entities, which will result in a merged entity that will license, certify, register, or otherwise regulate one hundred (100) or more persons; or
 - c. Allow the **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ to assume administrative duties for the board or commission as described in **Section 5 of this Act**~~[KRS 224.10-052]~~.
- (b) If, after implementation of its plan under paragraph (a)3.a. or b. of this subsection, an independent board or commission fails to license, certify, register, or otherwise regulate one hundred (100) or more persons for an additional three (3) consecutive fiscal years, for a total of five (5) consecutive fiscal years, that board or commission shall allow the **Department of Professional Licensing**~~[Office of~~

~~Occupations and Professions]~~ to assume administrative duties for the board or commission as described in *Section 5 of this Act* ~~[KRS 224.10-052]~~ within ninety (90) days after the end of the fifth fiscal year.

➔Section 7. KRS 12.020 is amended to read as follows:

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department for Public Advocacy.

- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.

- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
 - 11. Kentucky Mining Board.
 - (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.

2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.

- (l) ***Department of Professional Licensing.***
 - 1. ***Real Estate Authority***~~[Office of Occupations and Professions]~~.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Employment Standards, Apprenticeship, and Mediation.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 - 1. Office of General Counsel for Workers' Claims.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information and Research.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - 8. Workers' Compensation Advisory Council.
 - 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.

- 3. Office of Highway Safety.
- 4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.

- (g) Office of Policy and Budget.
- (h) Office of Human Resource Management.
- (i) Office of Administrative and Technology Services.
- (j) Department for Public Health.
- (k) Department for Medicaid Services.
- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (m) Department for Aging and Independent Living.
- (n) Department for Community Based Services.
- (o) Department for Income Support.
- (p) Department for Family Resource Centers and Volunteer Services.
- (q) Kentucky Commission on Community Volunteerism and Service.
- (r) Kentucky Commission for Children with Special Health Care Needs.
- (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - 1. Division of Tourism Services.

2. Division of Marketing and Administration.
3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 1. Division of Information Technology.
 2. Division of Human Resources.
 3. Division of Financial Operations.
 4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Public Affairs.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.

12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Research and Administration.
 3. Office of Governmental Relations and Tourism Development.
 4. Office of the Sports Authority.
 5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.

- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

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

➔Section 8. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, *a Department of Professional Licensing*, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- ~~(2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.~~
- ~~(3)~~ The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
 - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- ~~(3)~~~~(4)~~ The following agencies are attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330:
 - (a) Crime Victims Compensation Board;
 - (b) Board of Claims;
 - (c) Kentucky Board of Tax Appeals;
 - (d) Kentucky Boxing and Wrestling Authority; and
 - (e) Kentucky Horse Racing Commission.

➔Section 9. KRS 164.6903 is amended to read as follows:

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

- (1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;
- (2) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;

- (3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;
- (5) **"Department" means the Department of Professional Licensing**~~["Office" means the Office of Occupations and Professions]~~ in the Public Protection Cabinet;
- (6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;
- (8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;
- (9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;
- (10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (11) "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;
- (12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and
- (13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

➔Section 10. KRS 164.6905 is amended to read as follows:

- (1) By acting as an athlete agent in this state, a nonresident individual appoints the **department**~~Office of Occupations and Professions~~ as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.
- (2) The **department**~~office~~ may issue subpoenas for any material that is relevant to the administration of KRS 164.6901 to 164.6935.
- (3) The **department**~~office~~ may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of KRS 164.6901 to 164.6935.

➔Section 11. KRS 164.6909 is amended to read as follows:

- (1) An applicant for registration shall submit an application for registration to the **department**~~office~~ in a form prescribed by the **department**~~office~~. An application filed under this section is a public record. The application ~~shall must~~ be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:
 - (a) The name of the applicant and the address of the applicant's principal place of business;
 - (b) The name of the applicant's business or employer, if applicable;
 - (c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;
 - (d) A description of the applicant's:
 1. Formal training as an athlete;
 2. Practical experience as an athlete agent; and

3. Educational background relating to the applicant's activities as an athlete agent;
 - (e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;
 - (f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;
 - (g) The names and addresses of all persons who are:
 1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
 2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;
 - (h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;
 - (i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;
 - (j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;
 - (k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and
 - (l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.
 - (2) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The ~~department office~~ shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:
 - (a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
- ➔Section 12. KRS 164.6911 is amended to read as follows:
- (1) Except as otherwise provided in subsection (2) of this section, the ~~department office~~ shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) or whose application has been accepted under KRS 164.6909(2).
 - (2) The ~~department office~~ may refuse to issue a certificate of registration if the ~~department office~~ determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the ~~department office~~ may consider whether the applicant has:
 - (a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
 - (b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
 - (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
 - (d) Engaged in conduct prohibited by KRS 164.6925;

- (e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;
 - (f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
 - (g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
- (3) In making a determination under subsection (2) of this section, the **department**~~{office}~~ shall consider:
- (a) How recently the conduct occurred;
 - (b) The nature of the conduct and the context in which it occurred; and
 - (c) Any other relevant conduct of the applicant.
- (4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the **department**~~{office}~~. An application filed under this section is a public record. The application for renewal ~~shall~~~~must~~ be signed by the applicant under penalty of perjury and ~~shall~~~~must~~ contain current information on all matters required in an original registration.
- (5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The **department**~~{office}~~ shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:
- (a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
- (6) A certificate of registration or a renewal of registration is valid for one (1) year.
- ➔Section 13. KRS 164.6913 is amended to read as follows:
- (1) The **department**~~{office}~~ may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under KRS 164.6911(2).
 - (2) The **department**~~{office}~~ may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.
 - (3) The **department**~~{office}~~ may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

➔Section 14. KRS 164.6915 is amended to read as follows:

An application for registration or renewal of registration ~~shall~~~~must~~ be accompanied by a fee in the following amount:

- (1) An initial application for registration fee determined by the **department**~~{office}~~, not to exceed three hundred dollars (\$300);
- (2) An annual renewal fee determined by the **department**~~{office}~~, not to exceed three hundred dollars (\$300); or
- (3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the **department**~~{office}~~, not to exceed two hundred fifty dollars (\$250).

➔Section 15. KRS 164.6923 is amended to read as follows:

- (1) An athlete agent shall retain the following records for a period of five (5) years:
 - (a) The name and address of each individual represented by the athlete agent;
 - (b) Any agency contract entered into by the athlete agent; and

- (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.
- (2) Records required to be retained in subsection (1) of this section are open to inspection by the ~~department~~~~office~~ during normal business hours.

➔Section 16. KRS 164.6929 is amended to read as follows:

- (1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of KRS 164.6901 to 164.6935. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.
- (2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of KRS 164.6901 to 164.6935 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.
- (3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
- (4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
- (5) The ~~department~~~~office~~ may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of KRS 164.6901 to 164.6935.
- (6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any person under law or equity.

➔SECTION 17. KRS 198B.704 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) (a) *There is hereby created an independent agency of state government to be known as the Kentucky Board of Home Inspectors, which shall be attached to the Department of Professional Licensing for administrative purposes. The board shall consist of five (5) members, each appointed by the Governor. Each board member shall serve a term of three (3) years. The board shall annually select one (1) of its members to serve as chair and one (1) of its members to serve as vice chair to act in the chair's absence. The board shall designate either a board member or a member of the board's administrative staff to serve as secretary to the board.*
- (b) *Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.*
- (c) *No more than three (3) members of the same political party shall serve on the board at the same time.*
- (d) *No member of the board shall reside in the same county as another member. The members of the board shall be residents of Kentucky.*
- (e) 1. *A majority of the board shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members is necessary for the board to take official action.*
- 2. *If the chair and vice chair are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chair until the conclusion of the meeting or until the arrival of the chair or vice chair.*
- (f) *No member may serve on the board for more than six (6) consecutive years. A member may serve on the board for six (6) consecutive years on more than one (1) occasion if that person is not a member of the board for at least two (2) years between periods of board service.*
- (2) *The five (5) members of the board shall be chosen as follows:*
 - (a) *Three (3) members shall:*
 - 1. *Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed no less than one hundred (100) fee-paid inspections per year over the last five (5) years; and*
 - 2. *Be licensed by the board as a home inspector;*

- (b) *One (1) member shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer; and*
- (c) *One (1) member shall be a real estate professional licensed under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors. When a vacancy occurs in this member position, the Kentucky Association of Realtors shall have sixty (60) days after the vacancy occurs to submit a list of three (3) names to the Governor to fill the vacancy. The Governor may reject the list of three (3) names and request that the Kentucky Association of Realtors submit a new list of three (3) names within sixty (60) days of the Governor's request. If the Kentucky Association of Realtors fails to timely submit this list to the Governor, the Governor may immediately appoint a qualified person to fill this vacancy.*
- (3) *A board member shall be automatically removed from the board and a vacancy shall occur when the board member:*
 - (a) *Ceases to be a resident of the Commonwealth of Kentucky;*
 - (b) *Displays incompetence, neglect of duty, or unprofessional conduct;*
 - (c) *Fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board;*
 - (d) *Enters a plea of guilty to, or has been found guilty of, a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal; or*
 - (e) *Misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.*
- (4) *Voting members of the board shall be compensated no more than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, board members and board staff may attend and travel to and from meetings and events relevant to the board or the industry the board represents.*
- (5) *The board shall meet at least quarterly each calendar year upon the call of the chair or the written request of a majority of the members of the board.*
- (6) *The chair shall establish the date, time, and place for each meeting.*

➔Section 18. KRS 198B.706 is amended to read as follows:

The board shall:

- (1) Through the promulgation of administrative regulations:
 - (a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by KRS 198B.700 to 198B.738; and
 - (b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards and list all other exclusions with specificity;
- (2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;
- (3) Issue or deny applications for licensure and renewals;
- (4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, when appropriate, take action in accordance with KRS 198B.728 and 198B.730;
- (5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with KRS 198B.700 to 198B.738 or the administrative regulations promulgated under KRS 198B.700 to 198B.738;
- (6) Establish license fees in an amount not to exceed two hundred fifty dollars (\$250) annually;

- (7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;
- (8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under KRS 198B.728 and 198B.730;
- (9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;
- (10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce KRS 198B.700 to 198B.738 and administrative regulations promulgated thereunder;
- (11) Establish continuing education requirements for licensed home inspectors in accordance with KRS 198B.722 and 198B.724;
- (12) Conduct disciplinary actions against licensees to include:
 - (a) Suspension, probation, or permanent revocation of a license;
 - (b) Requiring a licensee to obtain additional continuing education; and
 - (c) Issuance of a written reprimand;
- (13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:
 - (a) The American Society of Home Inspectors;
 - (b) The ~~International National~~ Association of *Certified* Home Inspectors; or
 - (c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection as determined by the board.

The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board and, if adopted by regulation, the standards in paragraphs (a) and (b) of this subsection;

- (14) Exercise all other powers specifically conferred on the board under KRS 198B.700 to 198B.738; and
- (15) Promulgate administrative regulations to carry out the effective administration and the requirements of KRS 198B.700 to 198B.738, *with the approval of the executive director of the Kentucky Real Estate Authority*.

➔Section 19. KRS 198B.728 is amended to read as follows:

- (1) The board shall take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of KRS 198B.700 to 198B.738 or any administrative regulations promulgated to carry out KRS 198B.700 to 198B.738.
- (2) *Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding any decision of the board. An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides.*

➔Section 20. KRS 309.131 is amended to read as follows:

- (1) There is hereby created the Kentucky Board of Licensure for Professional Art Therapists that shall be attached to the *Department of Professional Licensing*~~[Office of Occupations and Professions]~~ in the Public Protection Cabinet for administrative purposes. The board shall consist of five (5) members who are United States citizens and have been Kentucky residents for at least five (5) years prior to their appointment. The board membership shall be determined as follows:
 - (a) Four (4) members shall be professional art therapists who are licensed pursuant to KRS 309.133, and shall have engaged in art therapy practice for at least five (5) years. These members shall not hold any elected or appointed office in any professional organization of art therapy or closely related field during their tenure on the board; and
 - (b) One (1) member shall represent the public. The public member shall not have been licensed or have practiced as a professional art therapist, nor have any significant financial interest, either direct or indirect, in the profession of art therapy.

- (2) All members of the board shall be appointed by the Governor for staggered terms of four (4) years.
- (3) The four (4) professional members shall be appointed from a list of eight (8) names submitted by the board of directors of the Kentucky Art Therapy Association, Inc., and the one (1) public member shall be a citizen at large. Each member shall hold office until a successor is appointed. Vacancies shall be filled in the same manner as original appointments. No board member shall serve more than two (2) consecutive terms.
- (4) Each board candidate shall be licensed as an art therapist prior to nomination and shall be actively engaged in the practicing or teaching of art therapy, except for the one (1) public member.
- (5) Members of the board shall receive no compensation, perquisite, or allowance.
- (6) The board shall elect annually from its membership a chairman, secretary, and other officers as necessary to carry out its duties.
- (7) The board shall meet at least two (2) times each year. Additional meetings may be called by the chairman, upon the written request of at least two (2) members of the board. A simple majority of the board members shall constitute a quorum of the board.

➔Section 21. KRS 309.329 is amended to read as follows:

- (1) There is hereby created the Kentucky Board of Licensed Diabetes Educators consisting of five (5) members who shall be appointed by the Governor as follows:
 - (a) One (1) member shall be a licensed medical physician with experience in the delivery of diabetes education appointed from a list of three (3) names submitted by the State Board of Medical Licensure;
 - (b) One (1) member shall be a registered nurse with experience in diabetes education appointed from a list of three (3) names submitted by the Kentucky Board of Nursing;
 - (c) One (1) member shall be a pharmacist experienced in diabetes education, licensed under KRS Chapter 315, and appointed from a list of three (3) names submitted by the Kentucky Board of Pharmacy;
 - (d) One (1) member shall be a licensed dietitian or certified nutritionist with experience in diabetes education appointed from a list of three (3) names submitted by the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists; and
 - (e) One (1) member shall be a citizen at large who is not employed in the health care field.

One (1) of the members appointed under paragraph (b), (c), or (d) of this subsection shall have completed either the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators.

- (2)
 - (a) The Governor shall initially appoint one (1) member and the citizen at large to terms of four (4) years, two (2) members to terms of three (3) years, and one (1) member to a term of two (2) years.
 - (b) All reappointments to the board shall be for terms of four (4) years.
 - (c) No member shall serve more than two (2) consecutive terms and shall serve on the board until his or her successor is appointed.
- (3) The board shall organize annually and elect one (1) of its members as chair and one (1) of its members as secretary. A quorum of the board shall consist of three (3) members. The board shall meet at least semiannually and upon the call of the chair, or at the request of two (2) or more members to the secretary of the board.

- (4) The board shall be placed for administrative purposes under the **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ of the Public Protection Cabinet.

➔Section 22. KRS 309.404 is amended to read as follows:

- (1) There is hereby created the Kentucky Board of Durable Medical Equipment Suppliers that shall be attached for administrative purposes to the **Department of Professional Licensing**~~[Office of Occupations and Professions]~~ in the Public Protection Cabinet. The board shall consist of five (5) members, each appointed by the Governor. Four (4) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky Medical Equipment Suppliers Association. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. Any vacancy shall be filled for the unexpired term by the Governor, as provided in the original appointment.

- (2) To be eligible for appointment as a member of the board, a person shall be at least twenty-one (21) years of age, of good moral character, a resident of this state, and a licensed durable medical equipment services provider in this state for at least three (3) consecutive years next preceding the date of his or her appointment.
- (3) The terms of office of each member shall be four (4) years, or until a successor is appointed and qualified.
- (4) The board shall elect one (1) of its members as president and another of its members as secretary. The secretary may, subject to approval by the board, employ and fix the compensation of all personnel required for the administration of KRS 309.400 to 309.422. The board may make all rules and ***promulgate all administrative*** regulations, not inconsistent with KRS 309.400 to 309.422, ~~that are~~***as may be*** necessary to implement and carry out the provisions and purposes of KRS 309.400 to 309.422.
- (5) The board shall hold meetings at least twice a year and as frequently as it deems necessary at a time and place within the Commonwealth as the board may designate. A majority of the members shall constitute a quorum.
- (6) The board may sue and be sued in its own name.
- (7) Members of the board shall be immune from suit in any civil or criminal action which is based upon any official act or acts performed by them in good faith as members of the board.
- (8) Members of the board shall receive no compensation for their services, but shall be paid for actual travel and other expenses incurred in connection with the performance of their duties and the business of the board.
- (9) The board may utilize any materials, services, or facilities as may be made available to it by other state agencies or may contract therefor, to the extent as the board in its discretion may determine.

➔Section 23. KRS 319B.020 is amended to read as follows:

The Kentucky Board of Prosthetics, Orthotics, and Pedorthics is hereby established. The board shall consist of five (5) members who shall be appointed by the Governor.

- (1) One (1) member shall be a citizen at large who is a consumer of orthotic, prosthetic, or pedorthic professional services and is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.
- (2) Four (4) members shall be practicing, licensed orthotists, licensed prosthetists, or licensed pedorthists. These members may be licensed in more than one (1) discipline and at least one (1) board member shall be a licensed pedorthist. Membership of the board shall reasonably reflect representation from the geographic areas in the Commonwealth.
- (3) Each member of the board shall serve a term of three (3) years, except that of the initial appointments to the board, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years, and one (1) member shall be appointed for one (1) year. No member of the board shall serve more than the greater of eight (8) consecutive years or two (2) full terms. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (4) The board shall meet at least annually and may meet at other times if necessary to complete required business. A quorum of the board shall consist of a majority of board members currently appointed. The board shall annually elect a chairperson and vice chairperson who shall be licensed under this chapter.
- (5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is acting with ordinary care, is functioning within the scope of board duties, is acting without malice, and has the reasonable belief that the actions taken by him or her are warranted by law.
- (6) Members of the board shall receive a per diem reimbursement of reasonable expenses incurred as determined by the board in consultation with the ***Department of Professional Licensing***~~Office of Occupations and Professions~~ for each day actually engaged in the duties of the office.

➔Section 24. KRS 319B.040 is amended to read as follows:

The board may:

- (1) Employ needed personnel and contract with the ***Department of Professional Licensing***~~Office of Occupations and Professions~~ within the Public Protection Cabinet for the provision of administrative services;
- (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;

- (3) Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;
- (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;
- (5) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, issue written reprimands or admonishments, or impose any combination of these penalties;
- (6) Grant retired or inactive licensure status under conditions set forth by the board by the promulgation of administrative regulations; and
- (7) Issue advisory private letter rulings to any affected licensee who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.

➔Section 25. KRS 324.200 is amended to read as follows:

- (1) If the commission determines after a hearing that any applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the commission determines after a hearing that any licensee has violated any of the provisions of this chapter, the disciplinary measures in KRS 324.160(1) may be ordered.
- (2) *Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding a decision of the commission.*
- (3) *An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order*~~[any party aggrieved by the action of the commission in refusing to grant a license or in ordering any disciplinary action may appeal]~~ *to the Circuit Court of the county where the licensee has his or her principal place of business or where the licensee applicant resides*~~[in accordance with KRS Chapter 13B]~~*. Disciplinary action imposed by the executive director*~~[commission]~~ *shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the executive director*~~[commission]~~*.*

➔Section 26. KRS 324.281 is amended to read as follows:

- (1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for *three (3)*~~four (4)~~ years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section. *A majority of the commission shall constitute a quorum for the transaction of business.*
- (2) All appointments shall be for the specified *three (3)*~~four (4)~~ year term. No person appointed after July 14, 2000, shall serve more than two (2) consecutive terms.
- (3) For each appointment or vacancy, the Kentucky Association of Realtors shall *within sixty (60) days* supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. *The Governor may reject the list of three (3) names and request that the Kentucky Association of Realtors submit a new list of three (3) names within sixty (60) days of the Governor's request. If the Kentucky Association of Realtors fails to timely submit this list to the Governor, the Governor may immediately appoint a qualified person to fill this vacancy.* The Governor may *otherwise* fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.
- (4) There shall not be more than three (3) *members* of any one (1) political party serving on the commission at the same time. *No member of the commission shall reside in the same county as another member.* Appointees to fill vacancies shall be appointed for the unexpired term.
- (5) It shall be the duty of the commission to:

- (a) Promulgate administrative regulations, *with the approval of the executive director of the Kentucky Real Estate Authority*;
- (b) ~~to~~ Hold disciplinary hearings concerning matters in controversy as provided by this chapter;
- (c) ~~to~~ Conduct examinations for applicants eligible under this chapter or alternatively to contract with an entity to conduct examinations;
- (d) ~~to~~ Conduct necessary educational seminars and courses directed toward continuing education within the real estate field;
- (e) ~~to~~ Investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; **and**
- (f) ~~to~~ Participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission.

Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

- (6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.
- (7) The commission shall require all actively-licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal.
- (8) The commission shall, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit for courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review.
- (9) ***The Governor shall set the compensation of the members of the commission, but voting members of the commission shall be compensated no less than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, commission members and commission staff may attend and travel to and from meetings and events relevant to the commission or to the industry the commission represents.***

➔Section 27. KRS 324A.015 is amended to read as follows:

- (1) There is created a Real Estate Appraisers Board consisting of five (5) members, two (2) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and two (2) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may promulgate administrative regulations necessary to effectuate the provisions of KRS 324A.010 to 324A.090.
- (2)
 - (a) The board members shall be appointed by the Governor. Not more than one (1) board member shall be from any one (1) county within **Kentucky. Members**~~[Kentucky Members]~~ shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.
 - (b) ***Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.***
 - (c) ***No more than three (3) members of the same political party shall serve on the board at the same time.***
- (3) The appraiser appointees to the board shall be certified and shall have engaged in the appraisal of real estate in Kentucky on a continuing basis for at least ten (10) years.
- (4) A board member shall be automatically removed from the board and a vacancy shall occur when:
 - (a) An appraiser member of the board ceases to be certified;
 - (b) A consumer member of the board acquires a certification as an appraiser;

- (c) A lending industry member ceases to be employed in the lending industry;
 - (d) A board member enters a plea of guilty to, or has been found guilty of, a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal;~~or~~
 - (e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky;
 - (f) ***A board member displays incompetence, neglect of duty, or unprofessional conduct;***
 - (g) ***A board member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board; or***
 - (h) ***A board member misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.***
- (5) The board shall adopt a seal with the design ***it prescribes***~~[as the board may prescribe]~~, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.
- (6) ***The Governor shall set the compensation of the members of the board, but voting members of the board shall be compensated no more than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, board members and board staff may attend and travel to and from meetings and events relevant to the board or the industry the board represents.***

➔Section 28. KRS 324A.025 is amended to read as follows:

- (1) The board shall elect a chairman each year at the first meeting called after appointment of new members. A majority of the board shall constitute a quorum and may exercise all powers and duties established by the provisions of KRS 324A.020.
- (2) The board shall meet at least once each calendar quarter.~~;~~
- ~~(3) Each member of the board shall receive actual and necessary expenses and mileage and shall receive two hundred dollars (\$200) per day as compensation for each day spent on duties as a member of the board.]~~

➔Section 29. KRS 324A.052 is amended to read as follows:

- (1) Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging a violation of any provision of this chapter. The board shall investigate each complaint.
- (2) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before fining, reprimanding, suspending, revoking, refusing to renew, or any combination thereof.
- (3) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the certificate holder or licensee. A copy of the admonishment shall be placed in the recipient's permanent file with the board. The recipient shall have the right to file a response to the admonishment within thirty (30) days of its receipt and have the response placed in the permanent file. The recipient may, alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.
- (4) After denying an application for a certificate or license or issuing an admonishment, the board shall grant an administrative hearing in accordance with KRS Chapter 13B only upon written request of the applicant made within thirty (30) days of the mailing of the letter of denial or admonishment.
- (5) ***Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding a decision of the board. An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his***

or her principal place of business or where the license applicant resides ~~[Any party aggrieved by a final order of the board may appeal to Franklin Circuit Court as provided by KRS Chapter 13B].~~

➔Section 30. KRS 324A.060 is amended to read as follows:

- (1) ~~[Effective July 1, 1992, The board shall be empowered to employ an executive director and other personnel as may be necessary to discharge the duties imposed by the provisions of KRS 324A.010 to 324A.090. The board shall outline the duties of all personnel and fix their compensation in accordance with KRS Chapter 18A.]~~ The board ~~may~~ ~~is also empowered to~~ obtain office space, utilities, furniture, supplies, and other goods and services *that are* ~~[as shall be]~~ reasonably necessary for carrying out the provisions of KRS 324A.010 to 324A.090.
- (2) *The administrative coordinator of the board* ~~[Each executive director assuming office after July 15, 2002,]~~ shall be a certified general or certified residential real property appraiser and shall possess not less than ten (10) years of experience as an appraiser within the Commonwealth of Kentucky.

➔Section 31. KRS 329A.025 is amended to read as follows:

- (1) The board shall administer and enforce the provisions of KRS 329A.010 to 329A.090 and shall evaluate the qualifications of applicants for licensure and issue licenses.
- (2) The board shall:
 - (a) Implement the provisions of KRS 329A.010 to 329A.090 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;
 - (b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of KRS 329A.010 to 329A.090;
 - (c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating, including but not limited to the following subject areas:
 1. Federal and state constitutional principles;
 2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;
 3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;
 4. General weapons use and concealed weapons laws;
 5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and
 6. Additional subject areas as determined by the board; and
 - (d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.
- (3) The board may:
 - (a) Contract with the *Department of Professional Licensing* ~~[Office of Occupations and Professions]~~ within the Public Protection Cabinet for the provision of administrative services;
 - (b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;
 - (c) Develop or sponsor at least six (6) hours of continuing professional education annually;
 - (d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;
 - (e) Renew licenses and require continuing professional education as a condition for renewal;
 - (f) Waive the examination requirement for any applicant licensed in a reciprocal state as prescribed in subsection (3)(m) of this section, who is licensed in good standing in that state and meets all of the other requirements of KRS 329A.035;

- (g) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;
- (h) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 329A.010 to 329A.090;
- (i) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;
- (j) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;
- (k) Utilize mediation as a technique to resolve disciplinary matters;
- (l) Seek injunctive relief in the Circuit Court of the county where the alleged unlawful practice occurred to stop the unlawful practice of private investigating by unlicensed persons or companies; and
- (m) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in KRS 329A.010 to 329A.090 to operate across state lines under mutually acceptable terms.

➔Section 32. KRS 330.050 is amended to read as follows:

- (1) There is hereby created a Board of Auctioneers. The Governor shall appoint a board consisting of five (5) members, all of whom immediately prior to the date of their appointment have been residents of the Commonwealth of Kentucky for five (5) years, and four (4) whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.
- (2) At no time shall there be more than two (2) auctioneer members of the same political party on the board. Whenever there is an auctioneer vacancy on the board, ***within sixty (60) days*** the Kentucky Auctioneer Association shall recommend to the Governor at least three (3) names for each auctioneer vacancy, and such appointment or appointments shall be made from the recommendations of the association, ***unless the Governor rejects the list of three (3) names and requests that the Kentucky Auctioneer Association submit a new list of three (3) names within sixty (60) days of the Governor's request. If the Kentucky Auctioneer Association fails to timely submit its recommendations to the Governor, the Governor may immediately appoint a qualified auctioneer to fill this vacancy.***
- (3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.
- (4)
 - (a) ***No member of the board shall reside in the same county as another member.***
 - (b) ***A majority of the board shall constitute a quorum for the transaction of business.***
 - (c) ***No member may serve on the board for more than six (6) consecutive years. A member may serve on the board for six (6) consecutive years on more than one occasion if that person is not a member of the board for at least two (2) years between periods of board service.***~~[Each member of the board shall receive the sum of twelve thousand dollars (\$12,000) per year, payable twice monthly, and reimbursement for actual and necessary expenses incurred in the performance of official duties].~~
- (5)
 - (a) ~~[The board shall have full authority to employ, and discharge, any personnel, including counsel, as it may deem necessary to efficiently administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, provided that compensation shall be comparable to the salaries paid other state employees, if any, which the board may deem to be doing similar work.]~~The board shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter. If any items deemed to be reasonably necessary by or which are required by the board are available through vendors under

contract with the Commonwealth of Kentucky at less cost than if obtained otherwise, then the items shall be acquired pursuant to the contract.

- (b) The board shall have full authority to obtain for its members, staff, and employees complete insurance coverage, including, but not limited to, liability and errors and omissions insurance, so long as the insurance concerns the business of the board.
- (6) All fees and charges collected by the board under the provisions of this chapter shall be paid into the State Treasury through the Finance and Administration Cabinet and shall be credited to an agency fund account for the Board of Auctioneers under the provisions of KRS 45.253 and shall be withdrawn or expended as provided in that section, if such payment, credit, withdrawal, or expense provisions do not conflict with any provision of this chapter.
 - (a) The board may establish and collect reasonable fees relating to the administration and enforcement of this chapter for application or other processing costs, on-line service, continuing education provider services, copy and mailing services, or other fees necessary to offset the licensing and processing costs.
 - (b) The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines, penalties, and other income imposed under the provisions of this chapter and paid into the state treasury.
 - (c) The board shall be financially self-sustaining, and if funds permit it may underwrite, within its financial limitations, educational programs for the enlightenment and benefit of all licensees who have paid fees pursuant to this chapter.
- (7) The board shall maintain annually a list of the names and addresses of all licensees regulated by the board. This list shall also contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative to the enforcement of the provisions of this chapter that the board may deem of interest to the public.
- (8) The board may promulgate administrative regulations *with the approval of the executive director of the Kentucky Real Estate Authority* in accordance with KRS Chapter 13A as required to fulfill the duties and functions assigned to the board by this chapter.
- (9) A board member shall be automatically removed from the board and a vacancy shall occur when:
 - (a) An auctioneer member of the board ceases to be a licensed auctioneer;
 - (b) A nonlicensed member of the board acquires a license regulated by the board;
 - (c) A board member enters a plea of guilty, an Alford plea, a plea of no contest to, or has been convicted of, any felony, and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal;~~or~~
 - (d) A board member ceases to be a resident of the Commonwealth of Kentucky;
 - (e) *Displays incompetence, neglect of duty, or unprofessional conduct;*
 - (f) *Fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board;*
 - (g) *Enters a plea of guilty to, or has been found guilty of, a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal; or*
 - (h) *Misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.*
- (10) *The Governor shall set the compensation of the members of the board, but voting members of the board shall be compensated no less than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, board members and board staff may attend and travel to and from meetings and events relevant to the board and the industry the board represents.*

➔Section 33. KRS 330.130 is amended to read as follows:

- (1) Before denying an application for license or before imposing any disciplinary action authorized under KRS 330.110, the board shall set the matter for an administrative hearing, if a hearing is requested by the applicant or licensee. The hearing shall be conducted in accordance with KRS Chapter 13B. If the subject of the hearing is an apprentice auctioneer, the board shall also provide notification of the hearing to the auctioneer employing ~~the apprentice auctioneer~~ ~~him~~ or whose employ he *or she* is about to enter, by sending notice by certified mail, return receipt requested, to the auctioneer's last known business address.
- (2) *Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding a decision of the board.*
- (3) *An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides* ~~[Any party aggrieved by a final order of the board refusing to grant a license or suspending or revoking a license may appeal the final order to the Circuit Court of the county in which the applicant or licensee resides, in accordance with KRS Chapter 13B].~~

➔Section 34. KRS 334.170 is amended to read as follows:

The *Department of Professional Licensing* ~~[Office of Occupations and Professions]~~ in the Public Protection Cabinet shall provide administrative aid to the board to assist it in the discharge of its duties.

➔Section 35. KRS 433.900 is amended to read as follows:

As used in KRS 433.900 to 433.906, unless the context otherwise requires:

- (1) "Applicant" means a secondary metals recycler seeking an application for a certificate of registration with the *Department of Professional Licensing* ~~[Office of Occupations and Professions]~~ of the Public Protection Cabinet, as provided in KRS 433.902. If the secondary metals recycler is owned by a corporation, limited liability company, partnership, limited partnership, incorporated association, or any other entity organized for the purpose of engaging in business as a secondary metals recycler, "applicant" means the officers of these entities;
- (2) "Ferrous metals" means any metal containing significant quantities of iron or steel;
- (3) "Nonferrous metals" means metal not containing significant quantities of iron, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof;
- (4) "Name-based background check" means a statewide search of the centralized criminal history record information system by the Department of Kentucky State Police, utilizing the name, date of birth, and Social Security number of the applicant;
- (5) "Restricted metals" means any of the following metal items:
 - (a) Manhole covers;
 - (b) Electric light poles or other utility poles;
 - (c) Guardrails;
 - (d) Street signs, traffic signs, or traffic signals;
 - (e) Whole road tiles;
 - (f) Funeral markers or funeral vases;
 - (g) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;
 - (h) Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;
 - (i) Stainless steel beer kegs;
 - (j) A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle; or
 - (k) Storm drain covers; and
- (6) (a) "Secondary metals recycler" means:

1. Any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value;
 2. Any person who has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value, other than by the exclusive use of hand tools, by methods including but not limited to processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof; or
 3. Any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.
- (b) "Secondary metals recycler" shall not include a municipal solid waste department or any entity which has been issued a municipal solid waste transporter license by the Kentucky Transportation Cabinet and which gathers or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to transport solid waste.

➔Section 36. KRS 433.902 is amended to read as follows:

- (1) (a) Each secondary metals recycler shall submit to a name-based background check as provided in subsection (2) of this section and obtain a certificate of registration from the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet within sixty (60) days of the effective date of administrative regulations promulgated pursuant to this section.
- (b) The application for certificate of registration shall be in a form and format determined by the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet and shall contain at a minimum the following:
 1. The name of the secondary metals recycling business;
 2. The name or names of each applicant;
 3. The address of each secondary metals recycling business owned by the applicant; and
 4. Contact information for the purposes of KRS 433.906.
- (c) Any person listed on an application for a certificate of registration shall be at least eighteen (18) years of age prior to the date that the application is submitted.
- (d) Any corporation, limited liability company, partnership, limited partnership, incorporated association, or any other entity engaged in business as, or organized for the purpose of engaging in business as, a secondary metals recycler submitting an application ~~shall~~~~must~~ be organized and qualified to do business in the Commonwealth.
- (e) The **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet shall charge each applicant a reasonable fee established by administrative regulation equal to the actual administrative costs of processing an application for a certificate of registration.
- (f) If an applicant is the owner of more than one (1) secondary metals recycling location, the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet shall charge a fee for each location that is no greater than the actual administrative costs of processing the application for certificate of registration. Upon approval of the application, the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet shall issue a certificate of registration for each location.
- (g) Each applicant that receives a certificate of registration from the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet as provided in this section shall be required to pay an annual renewal fee equal to the actual administrative costs of processing the renewal of the certificate for registration.
- (h) The list of secondary metals recyclers registered with the **Department of Professional Licensing**~~Office of Occupations and Professions~~ of the Public Protection Cabinet as provided in this section shall be

public information and available upon written request to the **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet.

- (2) (a) Prior to approval of the application, the **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet shall require a name-based background check on each applicant.
- (b) Each applicant shall provide written authorization to the Department of Kentucky State Police to perform a name-based background check and release the results to the **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet.
- (c) Any request for a name-based background check shall be on a form or through a process approved by the Department of Kentucky State Police, which may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (d) The **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet shall not issue a certificate of registration to an applicant if the name-based background check results reveal that the applicant has been convicted of, or entered a plea of guilty, an Alford plea, or a plea of nolo contendere to, a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, any felony drug offense, or knowingly and intentionally violating the laws of the Commonwealth relating to registration as a secondary metals recycler.
- (3) A secondary metals recycler's certificate of registration shall be conspicuously displayed at the location of the secondary metals recycler listed on the application for certificate of registration or at each location if the secondary metals recycler owns more than one (1) business location.
- (4) The **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.
- (5) The **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet shall not be responsible for any disciplinary action against any secondary metals recycler seeking an application for certificate of registration.

➔Section 37. KRS 433.906 is amended to read as follows:

- (1) A secondary metals recycler shall maintain at its place of business, or otherwise have immediate access to, an e-mail address, facsimile, or other equipment of similar function on which notifications of stolen restricted metals, ferrous metals, and nonferrous metals may be expeditiously received from law enforcement officials or electronic metal theft notification systems.
- (2) The equipment shall be operable at all times during the secondary metal recycler's customary business hours. The secondary metals recycler shall notify the **Department of Professional Licensing**~~{Office of Occupations and Professions}~~ of the Public Protection Cabinet within two (2) days of any change to the contact information used for the purposes of this section.

➔Section 38. KRS 324.2811 is amended to read as follows:

A member shall be automatically removed from the commission and a vacancy shall be created if:

- (1) A licensee of the commission ceases to be a broker or sales associate;
- (2) A consumer member of the commission acquires a license or financial interest in the practice of real estate;
- (3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal;~~{or}~~
- (4) A member ceases to be a bona fide resident of this Commonwealth;
- (5) *A member displays incompetence, neglect of duty, or unprofessional conduct;*
- (6) *A member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board; or*
- (7) *A member misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.*

➔Section 39. KRS 324A.020 is amended to read as follows:

The board shall have authority to promulgate administrative regulations *with the approval of the executive director of the Kentucky Real Estate Authority*, have subpoena power, hold disciplinary hearings, conduct examinations, conduct educational seminars, investigate allegations of wrongdoing under this chapter, seek and obtain injunctive relief to enforce the provisions of KRS 324A.010 to 324A.090, provide a list of certified appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, and perform such other functions and duties as may be necessary in carrying out the provisions of KRS 324A.010 to 324A.090.

➔Section 40. The following KRS section is repealed:

324.283 Compensation of commission members.

➔Section 41. Of the initial three appointments made to each of the Real Estate Commission, Real Estate Appraisers Board, Board of Auctioneers, and Board of Home Inspectors under Executive Order 2016-859, for each board one board member's term shall expire on October 31, 2017, one board member's term shall expire on October 31, 2018, and one board member's term shall expire on October 31, 2019. The person appointed as chair of each of the real property boards in Executive Order 2016-859 shall remain chair for one full year after the date of appointment. The two additional appointments to each board required by Sections 17, 26, 27, and 32 of this Act shall be made by April 15, 2017, and shall complete the five-board-member requirement for each board, rather than replace the initial appointments made under Executive Order 2016-859.

➔Section 42. Any member of the Real Estate Commission, Real Estate Appraisers Board, Board of Auctioneers, or Board of Home Inspectors, as those boards existed and were named on November 30, 2016, may continue to serve the board as a nonvoting ex officio member until that member's term expires. Upon expiration of a nonvoting ex officio member's term, the position shall lapse and the number of nonvoting ex officio members shall be reduced accordingly. Nonvoting ex officio members shall be compensated no more than \$100 per day for official business, subject to an annual maximum of \$2,000. Nonvoting ex officio members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees.

➔Section 43. The General Assembly confirms Executive Order 2016-859, dated December 1, 2016, to the extent not otherwise confirmed or superseded by this Act.

➔Section 44. Whereas the effective and efficient transfer of authority regarding real property occupations is crucial to those occupations and to the state economy, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 11, 2017.

CHAPTER 179

(HCR 48)

A CONCURRENT RESOLUTION urging the United States Food and Drug Administration to withdraw its proposed standard for NNN levels on ingredients and constituents in smokeless tobacco products.

WHEREAS, the United States Food and Drug Administration (FDA) is proposing, in 21 C.F.R. Pt. 1132, a limit of N-nitrosornicotine (NNN) in finished smokeless tobacco products; and

WHEREAS, 1,200 farmers in the United States grow the dark tobacco that makes up the main ingredient of smokeless tobacco products. These farmers, the majority of them residing in Kentucky, raise approximately 24,000 acres of the crop with an estimated cash value of approximately \$173 million per year; and

WHEREAS, almost all the dark tobacco grown in the entire United States is raised within a 50-mile radius of Hopkinsville, with some of the leaf grown in bordering areas of Tennessee; and

WHEREAS, significant manufacturing of smokeless tobacco products is done in Hopkinsville and in Owensboro. Current plans call for two additional projects in Christian County totaling \$42 million in further investments; and

WHEREAS, the proposed rule would establish a limit of NNN in finished smokeless tobacco products. Under the proposed rule, no person may manufacture, distribute, sell, or offer for distribution or sale within the United States a finished smokeless tobacco product that is not in compliance with FDA standards; and

WHEREAS, NNN in tobacco is naturally occurring and can be formed during growing, curing, manufacturing, and even while the products sit on retail shelves; and

WHEREAS, tobacco farmers and manufacturers have worked for years to limit NNN levels; and

WHEREAS, despite these efforts, agronomic variability, including the weather, is the largest contributor to NNN formation in dark tobacco on the farm; and

WHEREAS, the FDA's proposed standard for NNN levels in smokeless tobacco is technically unachievable; and

WHEREAS, the impact of a final rule would be far-reaching and onerous because of the negative impact on agriculture and on manufacturing jobs in Kentucky;

NOW, THEREFORE,

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

➔Section 1. The General Assembly urges the United States Food and Drug Administration to withdraw the proposed NNN rule because it is technically unachievable and because doing so would ultimately preserve hundreds of American farming and manufacturing jobs.

➔Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution and notification of its adoption to the Secretary of the United States Department of Health and Human Services, the Commissioner of the United States Food and Drug Administration, each member of Kentucky's delegation to the United States Congress, the two United States Senators representing Tennessee, and the United States Representatives representing House Districts 6 and 7 in Tennessee.

Signed by Governor April 11, 2017.

CHAPTER 180

(HCR 90)

A CONCURRENT RESOLUTION urging the United States government to designate a portion of the Edward T. Breathitt Pennyrile Parkway as Interstate 169.

WHEREAS, the Edward T. Breathitt Pennyrile Parkway opened as a toll road on Kentucky's Parkway system in 1969, providing a fast and efficient connection between the cities of Henderson and Hopkinsville; and

WHEREAS, in 2006, the section of the Edward T. Breathitt Pennyrile Parkway from Henderson to the Western Kentucky Parkway was designated as a portion of Interstate 69, and in 2015, legislation directed that the route be signed as Interstate 69; and

WHEREAS, designating the remainder of the Edward T. Breathitt Pennyrile Parkway as an interstate spur would provide increased connectivity between Interstate 69 and Interstate 24; and

WHEREAS, designation of the remainder of the Edward T. Breathitt Pennyrile Parkway as an interstate spur could save the federal government and the Commonwealth nearly \$200 million and maximize investments already made, like the \$100 million invested in the road in the 1990s to achieve this ultimate goal ; and

WHEREAS, designation of the remainder of the Edward T. Breathitt Pennyrile Parkway as an interstate spur will enhance the region by helping to bring in much needed economic and tourism dollars, especially since so many businesses emphasize connection to the interstate highway system when researching site selection; and

WHEREAS, designation of the remainder of the Edward T. Breathitt Pennyrile Parkway as an interstate spur would continue to improve the vital role that the interstate highway system plays in our national defense logistics system especially as it pertains to Fort Campbell; and

WHEREAS, current projects in Kentucky's Six Year Road Plan address intersection issues that pose potential obstacles to an interstate designation; and

WHEREAS, legislation has passed the United States Senate that would designate the remainder of the Edward T. Breathitt Pennyriple Parkway as Interstate 169;

NOW, THEREFORE,

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

➔Section 1. The members of the General Assembly strongly encourage the United States Congress and the United States Department of Transportation to designate the remainder of the Edward T. Breathitt Pennyriple Parkway, from its intersection with the Western Kentucky Parkway to its terminus at Interstate 24, as Interstate 169.

➔Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution to Secretary Elaine Chao, United States Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590; and to all members of Kentucky's Congressional delegation.

Signed by Governor April 11, 2017.

CHAPTER 181

(HB 72)

AN ACT relating to planning and zoning and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

- (1) *Any party that appeals the Circuit Court's final decision made in accordance with any legal challenge under this chapter shall, upon motion of an appellee as set forth in subsection (2) of this section, be required to file an appeal bond as set forth in this section.*
- (2) *Within thirty (30) days of the filing of the notice of appeal in Circuit Court, any appellee may file a motion for the Circuit Court, pursuant to the jurisdictional authority established in Rule 73.06 of the Kentucky Rules of Civil Procedure, to order the appellant to post an appeal bond, which the Circuit Court shall impose, subject to the other requirements of this sections. If an appellee does not move the Circuit Court to require the appellant to post an appeal bond, the right to request an appeal bond is waived.*
- (3)
 - (a) *Within thirty (30) days of an appellee filing a motion in Circuit Court for the appellant to post an appeal bond, the Circuit Court shall conduct a hearing to determine the amount of the appeal bond, issue findings of fact, and set the bond amount with good and sufficient surety.*
 - (b) *In determining the amount of the appeal bond, the Circuit Court shall determine if the appeal is presumptively frivolous, including but not limited to:*
 1. *Whether the appeal is of a ministerial or discretionary decision; and*
 2. *Whether or not there exists a reasoned interpretation supporting the appellant's position.*
 - (c) *If the Circuit Court determines that an appeal is presumptively frivolous, the Circuit Court shall consider all costs, economic loss, and damages that the appellee may suffer or incur during the pendency of, or that will be caused by, the appeal, including attorney fees and court costs, up to a maximum bond amount of two hundred fifty thousand dollars (\$250,000).*
 - (d) *If the Circuit Court determines that an appeal is not presumptively frivolous, the Circuit Court shall consider the costs that the appellee may incur during the pendency of the appeal, including but not limited to attorney fees and court costs, plus interest payable on land acquisition or development loans, up to a maximum bond amount of one hundred thousand dollars (\$100,000).*
 - (e) *Whether the Circuit Court makes a determination under paragraph (c) or (d) of this subsection:*

1. *Costs and damages shall not include expenses incurred prior to the date the notice of appeal is filed with the Circuit Court; and*
 2. *The appellee has the burden to present sufficient evidence establishing the appellee's cost and damages.*
- (f) *The appeal shall be dismissed if the bond is not posted within fifteen (15) days of the Circuit Court's determination of the bond amount.*
- (4) (a) *Once an appeal pursuant to this section becomes final and unappealable, either the appellant or the appellee may make a motion in the originating Circuit Court requesting that the Circuit Court conduct a hearing to determine the actual costs and damages to be paid to the appellee under the appeal bond.*
- (b) *The Circuit Court shall hold the hearing within thirty (30) days of the request and issue findings of fact as to the costs and damages within an additional thirty (30) days.*
- (c) *Costs and damages awarded under this subsection shall be limited to the amount of the appeal bond.*
- (d) *If neither party moves the Circuit Court within sixty (60) days pursuant to this subsection, the Circuit Court may on its own motion release the appeal bond.*
- (5) *Subsections (1) and (2) of this section shall not apply to the United States, the Commonwealth of Kentucky or any of its municipal corporations or political subdivisions, or any of their agencies or officers acting for or on their behalf, or to a person challenging the creation or expansion of a landfill.*

➔Section 2. Whereas it is desirable to curb unnecessary appeals of land use cases, which appeals burden the courts, cause loss of jobs and loss of tax revenue, and many times render time-sensitive projects such as multifamily affordable housing projects undevelopable, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 11, 2017.

CHAPTER 182

(HB 417)

AN ACT relating to an individual's right to concealed carry.

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

➔Section 1. KRS 237.137 is amended to read as follows:

- (1) Off-duty peace officers authorized to do so by the government employing the officer and retired peace officers certified under KRS 237.138 to 237.142 may carry concealed firearms on or about their persons at all times and at any location within the Commonwealth where an on-duty peace officer is permitted to carry firearms.
- (2) (a) *Any person who prevents or attempts to prevent an individual authorized under subsection (1) of this section from carrying a concealed firearm shall be guilty of a violation subject to a fine of:*
 1. *Five hundred dollars (\$500) for a first offense;*
 2. *One thousand dollars (\$1,000) for a second offense; and*
 3. *Two thousand five hundred dollars (\$2,500) for a third or any subsequent offense.*
- (b) *A citation for the violation may be issued to an individual or an establishment where the violation occurs.*

➔Section 2. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:

- (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked or suspended as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police, upon receipt of a completed application, applicable fees, and any documentation required by this section or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:
 - (a) A state records check covering the items specified in this subsection, together with any other requirements of this section;
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;
 - (c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and
 - (d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
 - (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;
 - (b)
 - 1. Is a citizen of the United States who is a resident of this Commonwealth;
 - 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;
 - 3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and is a resident of this Commonwealth; or
 - 4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth;
 - (c) Is twenty-one (21) years of age or older;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;

- (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law;
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety or training course that is conducted by a firearms instructor who is certified by a national organization *with membership open to residents of any state or territory of the United States, which was created to promote firearms education, safety, and the profession of firearms use and training, and to foster professional behavior in its members. The organization shall require members to adhere to its own code of ethics and conduct a program which—~~that~~* certifies firearms instructors and includes the use of written tests, in person instruction, and a component of live-fire training. *These national organizations shall include, but are not limited to The National Rifle Association, The United States Concealed Carry Association, and the National Shooting Sports Foundation. The training requirement may also be fulfilled through any—~~or a~~* firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course offered or approved by the Department of Criminal Justice Training shall:
 - 1. Be not more than eight (8) hours in length;
 - 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 - 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
 - 4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503; and
 - (j) Demonstrates knowledge of the law regarding the justifiable use of force by including with the application a copy of the concealed carry deadly weapons legal handout made available by the Department of Criminal Justice Training and a signed statement that indicates that applicant has read and understands the handout.
- (5) (a) A legible photocopy or electronic copy of a certificate of completion issued by a firearms instructor certified by a national organization or the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (b) Persons qualifying under subsection (6)(d) of this section may submit with their application:
- 1. At least one (1) of the following paper or electronic forms or their successor forms showing evidence of handgun training or handgun qualifications:
 - a. Department of Defense Form DD 2586;
 - b. Department of Defense Form DD 214;
 - c. Coast Guard Form CG 3029;
 - d. Department of the Army Form DA 88-R;
 - e. Department of the Army Form DA 5704-R;
 - f. Department of the Navy Form OPNAV 3591-1; or
 - g. Department of the Air Force Form AF 522; or
 - 2. a. Documentary evidence of an honorable discharge; and

- b. A notarized affidavit on a form provided by the Department of Kentucky State Police, signed under penalty of perjury, stating the person has met the training requirements of subsection (6)(d) of this section.
- (6)
 - (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
 - (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
 - 1. Any peace officer employed by a federal agency specified in KRS 61.365;
 - 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;
 - 3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army National Guard or Air National Guard who has successfully completed the military law enforcement training course required by that branch of the military;
 - 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
 - (c) Corrections officers who are currently employed by a consolidated local government, an urban-county government, or the Department of Corrections who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by a consolidated local government, an urban-county government, or the Department of Corrections who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.
 - (d) Active or honorably discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:
 - 1. Successfully completed handgun training which was conducted by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or
 - 2. Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.
- (7)
 - (a)
 - 1. A paper application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from and submitted to the office of the sheriff in the county in which the person resides.
 - 2. An applicant, in lieu of a paper application, may submit an electronic application for a license, or renewal of a license, to carry a concealed deadly weapon to the Department of Kentucky State Police.
 - 3. Persons qualifying under subsection (6)(d) of this section shall be supplied the information in subsection (4)(i)4. of this section upon obtaining an application.
 - (b)
 - 1. The completed paper application and any documentation required by this section plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides.
 - 2. The sheriff shall transmit the paper application and accompanying material to the Department of Kentucky State Police within five (5) working days.

3. Twenty dollars (\$20) of the paper application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons.
- (c)
 1. A completed electronic application submitted in lieu of a paper application, any documentation required by this section, and an application fee or renewal fee, as appropriate, of seventy dollars (\$70) shall be presented to the Department of Kentucky State Police.
 2. If an electronic application is submitted in lieu of a paper application, thirty dollars (\$30) of the electronic application fee shall be retained by the Department of Kentucky State Police. Twenty dollars (\$20) shall be sent to the office of the sheriff of the applicant's county of residence for official expenses of the office. Ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapon carry permits.
- (d) A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council and who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020, or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county government in Kentucky, shall be exempt from paying the paper or electronic application or renewal fees.
- (e) The application, whether paper or electronic, shall be completed, under oath, on a form or in a manner promulgated by the Department of Kentucky State Police by administrative regulation which shall include:
 1.
 - a. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and
 - b. If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;
 2. A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 3. A statement that the applicant, if qualifying under subsection (6)(c) of this section, has provided:
 - a. At least one (1) of the forms listed in subsection (5) of this section; or
 - b.
 - i. Documentary evidence of an honorable discharge; and
 - ii. A notarized affidavit on a form provided by the Department of Kentucky State Police stating the person has met the training requirements of subsection (6)(c) of this section;
 4. A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 5. A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 6. A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant shall submit to the sheriff of the applicant's county of residence or county of military posting if submitting a paper application, or to the Department of Kentucky State Police if submitting an electronic application:
 - (a) A completed application as described in subsection (7) of this section;

- (b) A recent color photograph of the applicant, as prescribed by administrative regulation;
- (c) A paper or electronic certificate or an affidavit or document as described in subsection (5) of this section;
- (d) A paper or electronic document establishing the training exemption as described in subsection (6) of this section; and
- (e) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, an affidavit as prescribed by administrative regulation concerning his or her immigration status and his or her United States government issued:
 - 1. Permanent Resident Card I-551 or its equivalent successor identification;
 - 2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and
 - 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

- (9) The Department of Kentucky State Police shall, within sixty (60) days after the date of receipt of the items listed in subsection (8) of this section if the applicant submitted a paper application, or within fifteen (15) business days after the date of receipt of the items listed in subsection (8) of this section if the applicant applied electronically, either:
 - (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available to law enforcement agencies. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information to any requester not entitled to it by law.
- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State

Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) for a paper request, or twenty-five dollars (\$25) for an electronic request submitted in lieu of a paper request, to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.
- (13)
 - (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
 - (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
 - (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
 - 1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 - 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
 - (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
 - (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
 - (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
 - (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
 - (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
 - (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
 - (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.
 - (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14)
 - (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information

relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the paper renewal form, or by filing with the Department of Kentucky State Police an electronic renewal form in lieu of a paper renewal form, stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee set forth in subsection (7) of this section. The sheriff shall issue to the applicant a receipt for the paper application for renewal of the license and shall date the receipt. The Department of Kentucky State Police shall issue to the applicant a receipt for an electronic application for renewal of the license submitted in lieu of a paper application for renewal and shall date the receipt.

- (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.
 - (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.
- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may

prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

- (18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (20)
 - (a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
 - (b) If a person with a valid license to carry a concealed deadly weapon issued from another state that has entered into a reciprocity agreement with the Department of Kentucky State Police becomes a resident of Kentucky, the license issued by the other state shall be considered as valid for the first one hundred twenty (120) days of the person's residence in Kentucky, if within sixty (60) days of moving to Kentucky, the person completes a form promulgated by the Department of Kentucky State Police which shall include:
 - 1. A signed and notarized statement averring that to the best of his or her knowledge the person's license to carry a concealed deadly weapon is valid and in compliance with applicable out-of-state law, and has not been revoked or suspended for any reason except for valid forfeiture due to departure from the issuing state;
 - 2. The person's name, date of birth, citizenship, gender, Social Security number if applicable, proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, former out-of-state address, current address within the state of Kentucky, date on which Kentucky residence began, state which issued the concealed carry license, the issuing state's concealed carry license number, and the state of issuance of license; and
 - 3. A photocopy of the person's out-of-state license to carry a concealed deadly weapon.
 - (c) Within sixty (60) days of moving to Kentucky, the person shall deliver the form and accompanying documents by registered or certified mail, return receipt requested, to the address indicated on the form provided by the Department of Kentucky State Police pursuant to this subsection.
 - (d) The out-of-state concealed carry license shall become invalid in Kentucky upon the earlier of:
 - 1. The out-of-state person having resided in Kentucky for more than one hundred twenty (120) days; or
 - 2. The person being issued a Kentucky concealed deadly weapon license pursuant to this section.

- (e) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every twelve (12) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each twelve (12) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
 - (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
 - (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;
 - (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
 - (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her

license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;
- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 - 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 - 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 - 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
 - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 - 2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

➔Section 3. KRS 237.122 is amended to read as follows:

- (1) The Department of Criminal Justice Training shall operate and maintain a program for certification of firearms instructors for the concealed deadly weapon training program. Only the General Assembly may eliminate the certified firearms instructor program.
- (2) Training courses for certification of firearms instructors shall be conducted by firearms instructor trainers and the department.

- (3) An applicant to be a firearms instructor shall hold a concealed deadly weapon license issued pursuant to KRS 237.110, and successfully complete a firearms instructor training course of not more than sixteen (16) hours provided by a certified firearms instructor trainer.
- (4) Certification as a firearms instructor shall be valid for a period of three (3) years during which an instructor shall:
 - (a) Conduct or assist in at least one (1) applicant training course;
 - (b) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
 - (c) Not have become ineligible to be a firearms instructor.
- (5) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors as specified in KRS 237.120.
- (6) At the end of the certification period, the department shall issue a new firearms instructor certification to any person who has completed the provisions of this section, unless the firearms instructor notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification. A firearms instructor who has permitted his or her certification to expire may take the in-service course and be recertified for a period of one hundred eighty (180) days from the date of expiration of the certification without having to repeat the requirements of subsection (3) of this section.
- (7) An instructor trainer shall charge a fee not to exceed one hundred fifty dollars (\$150) for a training course for a certified firearms instructor. The instructor shall remit fifty dollars (\$50) to the department to defray the cost of materials which the department shall provide to the instructor.
- (8) No firearms instructor trainer or certified firearms instructor shall charge a fee in excess of seventy-five dollars (\$75) for the conduct of an applicant training course. An instructor trainer or certified firearms instructor may charge a student the actual cost of range use, targets and associated range materials, and classroom rental not to exceed ten dollars (\$10) for all of the items specified in this subsection. The instructor trainer or certified firearms instructor shall remit twenty-five dollars (\$25) *per student* to the department to cover the provision of training materials distributed and providing evidence of successful completion of the course.
- (9) No portion of a fee collected pursuant to this section shall be refunded to a student who fails or does not complete the required course of instruction.

➔Section 4. KRS 237.128 is amended to read as follows:

- (1) A firearms instructor trainer or firearms instructor is guilty of providing incomplete firearms training if he or she represents to the department that he or she has conducted training for a student firearms instructor or for an applicant in an applicant training course and has not, in fact, provided lecture instruction, showed a required visual aid, conducted hands-on firearm safety~~[-and-cleaning]~~ training, provided range instruction and range firing, ***demonstrated firearm maintenance and cleaning procedures***, or has permitted a student to qualify on a target on which the student has not achieved the marksmanship required by administrative regulation.
- (2) Providing incomplete firearms training is a Class D felony.

➔Section 5. KRS 237.132 is amended to read as follows:

- (1) A person is guilty of failure to report insufficient firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact received lecture instruction, the showing of a required visual aid, hands-on firearm safety~~[-and-cleaning]~~ training, range instruction and range firing, ***a demonstration of firearm maintenance and cleaning procedures***, or has not successfully completed the marksmanship requirement during range firing and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Department of Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless additional time is requested and has been granted by an officer or agency to which a report shall be made.
- (2) Failure to report insufficient firearms training is a Class A misdemeanor.

- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which the person was originally enrolled.

Signed by Governor April 11, 2017.

CHAPTER 183

(HB 78)

AN ACT relating to providing breast density information and evidence-based breast cancer screening.

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

➔SECTION 1. A NEW SECTION OF KRS 214.550 TO 214.556 IS CREATED TO READ AS FOLLOWS:

- (1) *Physicians are encouraged to recommend digital mammography including breast tomosynthesis when writing orders for mammograms. The term "breast tomosynthesis" means a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images of the breast.*
- (2) *If a patient's x-ray mammogram demonstrates dense breast tissue, a person who provided the x-ray mammography services in the Commonwealth shall provide notification to the patient that includes but is not limited to the following information in the summary of the written report of the results sent directly to a patient:*

"Your x-ray mammogram shows that your breast tissue is dense. Dense breast tissue is common among women and is not abnormal. However, women with dense breast tissue may have a slightly increased risk for developing breast cancer. Dense breast tissue may also make it more difficult to detect an early breast cancer on your x-ray mammogram. At this time, there are no specific recommendations for additional screening or other measures related to having dense breast tissue. However, you may want to talk to your doctor about other ways that you might be able to reduce your risk of breast cancer. A report of your results was sent to your ordering physician. If you are self-referred, a report of your results was sent to you in addition to this summary."
- (3) *As used in this section, "dense breast tissue" means heterogeneously or extremely dense breast tissue as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening, including but not limited to the breast imaging reporting and data system established by the American College of Radiology. If, after the effective date of this Act, new terms are defined in revised guidelines or systems for breast imaging reporting of mammography screening and the Department for Public Health determines that those new terms are more appropriate for the purposes of the information required to be provided under this section, the Department for Public Health may update the definition of dense breast tissue under this subsection to use those new terms by administrative regulation.*
- (4) *Recognizing the continuous improvements in patient outcomes that are reflective of ongoing advances in evidence-based medical practices, expansive and emerging medical research, and evolving innovations in medical technology, subsection (2) of this section shall be in effect until January 1, 2021, unless the General Assembly takes action to extend this expiration date.*

➔Section 2. KRS 304.17-316 is amended to read as follows:

- (1) The term "mammogram" shall mean an x-ray examination of the breast using equipment dedicated specifically for mammography, including, but not limited to, the x-ray tube, filter, compression device, screens, film, and cassettes, with two (2) views of each breast and with an average radiation exposure at the current recommended level as set forth in guidelines of the American College of Radiology, *and digital mammography including breast tomosynthesis. The term "breast tomosynthesis" means a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images of the breast.*
- (2) (a) All insurers issuing individual health insurance policies in this Commonwealth that provide coverage on an expense-incurred basis for surgical services for a mastectomy and that are delivered, issued for

delivery, amended, or renewed on or after October 15, 1990, shall also provide coverage for low-dose mammography screening for persons who have no sign or symptom of breast cancer and when performed on dedicated equipment which meets the guidelines established by the American College of Radiology and upon self-referral or on referral by a health care practitioner acting within the scope of the practitioner's licensure. The coverage shall make available one (1) screening mammogram to persons age thirty-five (35) through thirty-nine (39); one (1) mammogram every two (2) years for persons ages forty (40) through forty-nine (49); and one (1) mammogram per year for a person fifty (50) years of age and over and may be limited to a benefit of fifty dollars (\$50) per screening mammogram. Any deductibles and coinsurance factors shall be no less favorable than for coverage for physical illness generally.

- (b) All insurers issuing individual health insurance policies in this Commonwealth that provide coverage on an expense-incurred basis for surgical services for a mastectomy and that are delivered, issued for delivery, amended, or renewed on or after July 14, 2000, shall also provide coverage for mammograms, performed on dedicated equipment that meets the guidelines established by the American College of Radiology, for any covered person, regardless of age, who has been diagnosed with breast disease upon referral by a health care practitioner acting within the scope of the practitioner's licensure. The coverage provided under this paragraph shall be subject to the same annual deductibles or coinsurance established for other coverages within the policy.
- (3) The mammogram shall be performed by a Kentucky State Certified General Certificate Radiographer or an American Registry of Radiologic Technology Registered Radiographer, interpreted by a qualified radiologist, and performed under the direction of a person licensed to practice medicine and certified by the American Board of Radiology. *The facility performing the examination and the health care practitioner who ordered it shall follow federal laws relating to the notification of mammography exam results and maintaining medical records*~~[Two (2) copies of the mammogram report shall be sent to the health care practitioner who ordered it, one (1) copy of which shall be given to the patient. In case of self-referral, one (1) copy of the mammogram report shall be given to the patient upon request. The mammography film shall be retained by the facility performing the examination in accordance with guidelines of the American College of Radiology].~~
- (4) Effective July 15, 1990, any facility in which mammograms are performed for reimbursement under this section, KRS 304.18-098, 304.32-1591, or 304.38-1935 shall meet current criteria of the American College of Radiology Mammography Accreditation Program.

Signed by Governor April 11, 2017.

CHAPTER 184

(HB 404)

AN ACT relating to commercial parcel delivery.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Commercial delivery personnel" means employees of a licensed commercial delivery service;*
- (b) *"Golf cart" has the same meaning as in KRS 189.286;*
- (c) *"Local government" has the same meaning as in KRS 189.286;*
- (d) *"Low-speed vehicle" has the same meaning as in Section 2 of this Act;*
- (e) *"Residential area" means areas zoned primarily or exclusively for single-family or multifamily residential use; and*
- (f) *"Utility vehicle" means a vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but does not include any vehicle designed or used primarily for the*

transportation of persons or property on a street or highway, a golf cart, or an all-terrain vehicle as defined in KRS 189.010.

- (2) *Commercial delivery personnel may operate low-speed vehicles, golf carts, or utility vehicles solely for the purpose of delivering express envelopes and packages if:*
 - (a) *The operator has a valid operator's license in his or her possession;*
 - (b) *The vehicles are solely operated in residential areas and on public roadways with a posted speed limit of thirty-five (35) miles per hour or less;*
 - (c) *At any point after a required notice of intent to operate is provided to the local government pursuant to subsection (8) of this section, the local government having jurisdiction over the public roadways described in paragraph (b) of this subsection has not enacted an ordinance prohibiting commercial delivery personnel from operating on those roadways;*
 - (d) *The size of the combined length and girth packages does not exceed one hundred thirty (130) inches and the weight of the packages does not exceed one hundred fifty (150) pounds; and*
 - (e) *The vehicles are being operated between:*
 1. *Sunrise and sunset; or*
 2. *A time period specified by local ordinance under the provisions of subsection (6) of this section.*
- (3) *Vehicles operating under subsection (2) of this section shall:*
 - (a) *Be titled in accordance with KRS Chapter 186A;*
 - (b) *Be registered as a motor vehicle in accordance with KRS 186.050(3)(a);*
 - (c) *Be insured in compliance with KRS 281.655;*
 - (d) *Meet the federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. sec. 571.500;*
 - (e) *Be marked in a conspicuous manner with the name of the delivery service;*
 - (f) *Bear an identifying sticker or tag issued by the cabinet. The sticker or tag shall carry a unique ID; and*
 - (g) *Comply with vehicle standards established by administrative regulations promulgated under subsection (9) of this section.*
- (4) *Commercial delivery personnel may pull a trailer from vehicles operated under this section if the trailer is registered in accordance with KRS 186.675(4).*
- (5) *Commercial delivery personnel operating a vehicle on a public roadway under this section shall be subject to the traffic regulations in this chapter.*
- (6) *The governing body of a local government may, by local ordinance, regulate a vehicle operating under this section on any public roadway under its jurisdiction by specifying:*
 - (a) *Each roadway that is prohibited for use by vehicles operating under this section; and*
 - (b) *The time period during which vehicles under this section may operate.*
- (7) *A local ordinance adopted under this section shall not assess fees or set forth vehicle equipment requirements.*
- (8) *At least sixty (60) days prior to commencing the operation of low-speed vehicles, golf carts, or utility vehicles under this section, a commercial delivery service shall provide notice to a local government of its intent to operate on roadways under the local government's jurisdiction. Notification under this subsection shall not be required for local governments that have adopted an ordinance under KRS 189.286.*
- (9) *The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to establish requirements and to set forth standards for vehicles used by commercial delivery personnel operating under this section, including but not limited to issuance of an identification sticker or tag.*

➔Section 2. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section, but *for registration purposes* shall include low-speed vehicles as defined in this section *and vehicles operating under Section 1 of this Act*.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7)
 - (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
 - (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
 - (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8)
 - (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
 - (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.

- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
- (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.
- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. "Motorcycle" shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry; and
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.

Signed by Governor April 11, 2017.

CHAPTER 185

(HB 360)

AN ACT relating to agritourism and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in this section, an agritourism building as defined in Section 2 of this Act shall comply with the Kentucky Building Code.*
- (2) *An agritourism building built prior to December 31, 2016, shall be exempt from the following requirements within the Kentucky Building Code:*
 - (a) *An agritourism building built prior to December 31, 2016, shall not be required to comply with the seismic requirements within the Kentucky Building Code; and*
 - (b) *If an agritourism building has a capacity of four hundred (400) persons or is six thousand (6,000) square feet or less, an agritourism building built prior to December 31, 2016, shall not require the services of an architect licensed by the Commonwealth of Kentucky.*

➔Section 2. KRS 247.801 is amended to read as follows:

As used in KRS 247.800 to 247.810:

- (1) "Agritourism" means the act of visiting:
 - (a) A farm or ranch; or
 - (b) Any agricultural, horticultural, or agribusiness operation;
 for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;
- (2) "Agritourism activity" means any activity ~~that~~~~carried out on~~:
 - (a) *Is carried out on a farm, ranch, agricultural operation, horticultural operation, or agribusiness operation; and*~~[A farm or ranch; or]~~
 - (b) *Allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. Qualifying activities may include farming, ranching, historic, cultural, civic, or ceremonial activities, including but not limited to weddings and ancillary events; harvest-your-own operations; farmers' markets; or natural resource-based activities. The activities may qualify as agritourism activities whether or not a participant pays to view or to participate in the activity*~~[Any agricultural, horticultural, or agribusiness operation; — that allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. The activities can include farming, ranching, historic or cultural agricultural activities, harvest your own operations, patronizing farmers' markets, or natural resource based activities. An activity is an agritourism activity whether or not a participant pays to view or participate in the activity];~~
- (3) *"Agritourism building" means any building or structure or any portion thereof that is used for one (1) or more agritourism activities;*
- (4) "Agritourism professional" means any person, including employees or authorized agents acting on behalf of the agritourism professional, who is engaged in the business of providing one (1) or more agritourism activities;~~[and]~~
- (5)~~[(4)]~~ *"Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including certain hazards, such as surface or subsurface conditions; natural conditions of land, vegetation, or water; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment used in farming and ranching operations; and*
- (6) "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

➔Section 3. KRS 219.011 is amended to read as follows:

As used in KRS 219.011 to 219.081:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services or its designee;

- (3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes, and similar establishments, but excludes boarding houses and rooming houses;
- (4) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a hotel;
- (5) "Bed and breakfast establishment" means a one (1) family dwelling unit, but which also has guest rooms or suites used, rented, or hired out for occupancy or which are occupied for sleeping purposes by persons not members of the single-family unit. The innkeeper shall reside on the premises or property adjacent to the premises during periods of occupancy. The building shall be known as either a bed and breakfast home or a bed and breakfast inn;
- (6) "Bed and breakfast home" means a bed and breakfast establishment:
 - (a) Having five (5) or fewer guest rooms or suites for occupancy;
 - (b) In which breakfast and other meals may be served to guests; and
 - (c) Whose innkeeper resides on the premises or property adjacent to the premises during periods of occupancy;
- (7) "Bed and breakfast inn" means a private inn or other unique residential facility:
 - (a) Having six (6) or more guest rooms or suites for occupancy;
 - (b) In which breakfast and other meals may be served to the guests; and
 - (c) Whose innkeeper resides on the premises or property adjacent to the premises during periods of occupancy; and
- (8) "Farmstay" means a bed and breakfast establishment at a farm location whose focus includes agritourism as defined in *Section 2 of this Act* ~~[KRS 247.800]~~.

Signed by Governor April 11, 2017.

CHAPTER 186

(HB 396)

AN ACT relating to the Kentucky State Police and declaring an emergency.

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

➔Section 1. KRS 15A.197 is amended to read as follows:

The Justice and Public Safety Cabinet and its agencies may provide state personnel, state property, and other state resources to Trooper Island Incorporated *and the Kentucky State Police Foundation*.

➔Section 2. KRS 16.040 is amended to read as follows:

- (1) The department shall consist of the commissioner and the number of officers, individuals employed as a Trooper R Class, CVE R Class, and civilians, and shall be organized in the manner as the commissioner from time to time determines.
- (2) All persons appointed as officers shall at the time of their appointment:
 - (a) Be not less than twenty-one (21) ~~[- not more than thirty-one (31) -]~~ years of age;
 - (b) Be of good moral character, and in good health;
 - (c) Be citizens of the United States and residents of the Commonwealth; and
 - (d) Possess;
 - I.* A minimum of sixty (60) hours of credit, or an associate degree, from an accredited college or university;

2. ~~[or be]~~ A high school **diploma**~~[graduate]~~ with at least two (2) years' experience in the military or in law enforcement; *or*
 3. ***A high school diploma or General Educational Development (GED) diploma with additional experience established by the commissioner by administrative regulation promulgated pursuant to KRS Chapter 13A. However, any person appointed under this subparagraph shall not be given a duty assignment until he or she meets the requirements of subparagraph 1. of this paragraph.***
- (3) The commissioner shall prescribe minimum physical requirements for appointment as an officer of the department and for individuals employed as a Trooper R Class or CVE R Class, and shall conduct such tests and require such physical examinations as deemed necessary to determine the fitness and qualification of each applicant. All other qualifications being equal, preference shall be given to veterans of the Armed Forces of the United States in time of war, who were honorably discharged.
 - (4) The commissioner shall direct an investigation to be conducted in order to determine an applicant's suitability for employment as an officer. The contents of the investigation shall be subject to the Open Records Act, KRS 61.870 to 61.884 and KRS 61.991, except that the identity of any witness or informant involving information relative to this investigation shall remain confidential. The identity of any witness or informant shall be subject to the subpoena power of a court of competent jurisdiction.

➔Section 3. KRS 16.052 is amended to read as follows:

- (1) The base compensation of officers shall be determined based on years of service and rank, as provided in this section.
- (2) (a) The years-of-service requirements for the salary schedule for ranks below sergeant are as follows:
 1. A Trooper is an officer with less than three (3) years of continuous service as a commissioned officer with the department;
 2. A Senior Trooper shall have:
 - a. At least three (3) years of continuous service as a commissioned officer with the department and sixty (60) college credit hours;
 - b. At least four (4) years of continuous service as a commissioned officer with the department and thirty-two (32) college credit hours; or
 - c. Five (5) years of continuous service as a commissioned officer with the department with no college credit requirement;
 3. A Trooper First Class shall have at least ten (10) years of continuous service as a commissioned officer with the department; and
 4. A Master Trooper shall have at least fifteen (15) years of continuous service as a commissioned officer with the department.
- (b) In addition to meeting the years of service requirements established by paragraph (a) of this subsection, officers listed in the salary schedule for officers below the rank of sergeant shall also meet the requirements for promotion in rank established by the commissioner pursuant to KRS 16.050.
- (c) Requirements for promotion to sergeant, lieutenant, and captain are as established by KRS 16.055.
- (3) Any overtime and any salary supplement received from the Law Enforcement Foundation Program pursuant to KRS 15.410 to 15.510 or any comparable supplements received from another funding source shall be in addition to the amounts reflected in the base salary schedules established by subsection (4) of this section.
- (4) (a) The salary schedules established in this subsection are based on a combination of officer classification and years of service.
- (b) When "NA" appears in the schedule, it is not possible for an officer to be in that classification and years-of-service combination based upon statutory or regulatory conditions established for promotion or advancement.
- (c) Salary increases based on years of service shall be effective on the first day of the month during which the anniversary of the officer's appointment as a commissioned Kentucky State Police officer falls.

- (d) Salary increases based on promotion to a higher rank shall be effective on the first day ~~of the month following the date~~ the officer is promoted.
- (e) If an officer is reverted to a previous rank, the officer's salary shall be adjusted to the salary reflected in the base salary schedule for the officer's applicable number of years of service and rank. The adjustment shall take effect the first pay period following the pay period in which the reversion occurs.
- (f) The base salary for a Cadet Trooper shall be thirty-five thousand dollars (\$35,000).

BASE SALARY SCHEDULE FOR RANKS BELOW SERGEANT

| Years of Service | Trooper Salary Steps Based on Rank | | | |
|------------------|------------------------------------|----------|-------------|----------|
| | Trooper | Senior | First Class | Master |
| Base Pay | \$37,887 | \$43,014 | NA | NA |
| 3 years | \$41,310 | NA | NA | NA |
| 5 years | \$43,014 | \$44,216 | NA | NA |
| 7 years | NA | \$45,452 | NA | NA |
| 9 years | NA | \$46,726 | NA | NA |
| 10 years | NA | NA | \$47,000 | NA |
| 13 years | NA | NA | \$49,450 | NA |
| 15 years | NA | NA | NA | \$55,356 |
| 17 years | NA | NA | NA | \$58,224 |
| 19 years | NA | NA | NA | \$61,263 |
| 21 years | NA | NA | NA | \$64,397 |
| 23 years | NA | NA | NA | \$67,716 |
| 25 years | NA | NA | NA | \$68,414 |
| 27 years | NA | NA | NA | \$69,118 |
| 29 years | NA | NA | NA | \$69,829 |

BASE SALARY SCHEDULE SERGEANT AND ABOVE

| Years of Service | Salary Steps Based on Rank | | |
|------------------|----------------------------|------------|----------|
| | Sergeant | Lieutenant | Captain |
| 6 years | \$45,271 | NA | NA |
| 7 years | \$47,271 | \$53,500 | NA |
| 8 years | \$47,805 | NA | \$59,100 |
| 9 years | \$49,918 | \$54,500 | NA |
| 11 years | \$50,911 | \$56,000 | \$61,199 |
| 13 years | \$53,108 | \$58,000 | \$63,798 |
| 15 years | \$56,966 | \$61,000 | \$67,188 |
| 17 years | \$61,093 | \$65,000 | \$70,747 |
| 19 years | \$65,510 | \$70,436 | \$74,845 |
| 21 years | \$70,235 | \$74,158 | \$78,409 |
| 23 years | \$75,292 | \$78,066 | \$82,529 |
| 25 years | \$80,702 | \$82,169 | \$86,755 |
| 27 years | \$85,491 | \$86,478 | \$90,306 |

| | | | |
|----------|----------|----------|----------|
| 29 years | \$90,686 | \$91,002 | \$93,998 |
|----------|----------|----------|----------|

- (5) Beginning on July 1, 2018, the salary schedule established by subsection (4) of this section shall be adjusted annually to incorporate any increase in the nonseasonally adjusted Consumer Price Index for all urban consumers, U.S. city average, all items, published by the United States Department of Labor, Bureau of Labor Statistics.
- (6) The salary schedules shall be applied to officers employed by the department on July 15, 2016, as follows:
- (a) Except as provided in paragraph (b) of this subsection:
1. Any officer whose base salary exceeds the amount established for his or her years of service and rank in subsection (4) of this section shall retain his or her base salary and shall not receive an increase under the salary schedule until the officer's years of service and rank require a higher base salary than the base salary he or she was receiving on July 15, 2016; and
 2. Any officer whose base salary is below the amount established for his or her years of service and rank in subsection (4) of this section shall receive the base salary he or she qualifies for under the salary schedule for the pay period beginning August 1, 2016; and
- (b) Any officer who is receiving compensation under KRS 16.165 shall not receive any years of service or rank increases during any period that he or she is receiving compensation under KRS 16.165.
- (7) The commissioner may establish additional ranks beyond those provided in the salary schedules established by this section, including the ranks of major, lieutenant colonel, colonel, and executive security detail. If the commissioner establishes any of these ranks, the commissioner shall set forth in a policy the conditions under which an officer may be promoted to the rank, and the salary that the officer will receive while serving in that rank.

➔Section 4. KRS 16.080 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations for the enlistment, training, *code of ethics*, discipline, and conduct of officers of the department and individuals employed as a Trooper R Class or CVE R Class, and the commissioner may promulgate administrative regulations for the governing and operation of the department as appear to him or her reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.
- (2) The commissioner may require any officer, individual employed as a Trooper R Class or CVE R Class, or civilian who receives or disburses public funds in the course of his or her duties to file a bond, conditioned that he or she will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his or her hands. The commissioner, each officer, and each individual employed as a Trooper R Class or CVE R Class, shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars (\$2,000), conditioned upon the faithful discharge of his or her duties. The premium on the bonds shall be paid by the department. The commissioner, each officer of the department, and each individual employed as a Trooper R Class or CVE R Class shall, before entering upon the discharge of their official duties, take the constitutional oath of office.
- (3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

➔Section 5. Whereas recruitment of law enforcement officers to the Department of Kentucky State Police is critically important for public safety in the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 11, 2017.

AN ACT relating to Bible literacy courses in the public schools.

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

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

- (1) *Pursuant to KRS 156.160, the Kentucky Board of Education shall promulgate administrative regulations to establish the courses of study for the different grades. The administrative regulation that sets forth the required and elective courses for the schools shall include:*
 - (a) *An elective social studies course on the Hebrew Scriptures, Old Testament of the Bible;*
 - (b) *An elective social studies course on the New Testament of the Bible; or*
 - (c) *An elective social studies course on the Hebrew Scriptures and the New Testament of the Bible.*
- (2) *The purpose of a course under this section is to:*
 - (a) *Teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and*
 - (b) *Familiarize students with, as applicable:*
 1. *The contents of the Hebrew Scriptures or New Testament;*
 2. *The history of the Hebrew Scriptures or New Testament;*
 3. *The literary style and structure of the Hebrew Scriptures or New Testament; and*
 4. *The influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.*
- (3) *A student shall not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic textbook a different translation of the Hebrew Scriptures or New Testament from that chosen by the school council.*
- (4) *The Kentucky Department of Education shall include the course standards in the program of studies for Kentucky schools, including the teacher qualifications and required professional development.*
- (5) *A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. A course under this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious faith or religious perspective. The Kentucky Board of Education, in complying with this section, shall not violate any provision of the United States Constitution or federal law, the Kentucky Constitution or any state law, or any administrative regulations of the United States Department of Education or the Kentucky Department of Education.*

➔Section 2. KRS 158.197 is amended to read as follows:

- (1) *A school-based decision making council under administrative regulations of the Kentucky Board of Education may offer students in grade nine (9) or above:*
 - (a) *An elective social studies course on the Hebrew Scriptures, Old Testament of the Bible;*
 - (b) *An elective social studies course on the New Testament of the Bible; or*
 - (c) *An elective social studies course on the Hebrew Scriptures and the New Testament of the Bible.*
- (2) *The purpose of a course under this section is to:*
 - (a) *Teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and*
 - (b) *Familiarize students with, as applicable:*
 1. *The contents of the Hebrew Scriptures or New Testament;*
 2. *The history of the Hebrew Scriptures or New Testament;*
 3. *The literary style and structure of the Hebrew Scriptures or New Testament; and*

4. *The influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.*
- (3) *A student shall not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic textbook a different translation of the Hebrew Scriptures or New Testament from that chosen by the school council.*
- (4) *A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. A course under this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious faith or religious perspective. A school-based decision making council, in complying with this section, shall not violate any provision of the United States Constitution or federal law, the Kentucky Constitution or any state law, or any administrative regulations of the United States Department of Education or the Kentucky Department of Education.*
- (5) Any school council organized pursuant to KRS 160.345 or, if none exists, the ~~principal~~~~[school's governing body]~~, may authorize the display of historic artifacts, monuments, symbols, and texts, including but not limited to religious materials, in conjunction with a course of study that includes an elective course in history, civilization, ethics, comparative religion, literature, or other subject area that uses such artifacts, monuments, symbols, and texts as instructional material if the display is:
 - (a)~~(1)~~ Appropriate to the overall educational purpose of the course; and
 - (b)~~(2)~~ Consistent with the requirements of KRS 42.705.

Signed by Governor April 11, 2017.

CHAPTER 188

(HB 253)

AN ACT relating to child protective services.

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

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

- (1) *If the cabinet's initial determination as to the risk of harm to and immediate safety of an abused or neglected child as defined in KRS 600.020 requires an investigation pursuant to administrative regulations promulgated by the cabinet, including consideration of information on the nature and extent of a present danger or threat of danger to the child or cabinet staff, and if the investigation requires a visit to the residence or location where the reported abuse or neglect occurred, the cabinet shall make the visit unannounced, in addition to any other actions taken to protect the child.*
- (2) *If the initial visit is necessary, after it is completed, the cabinet shall incorporate unannounced visits with any necessary scheduled visits until the welfare of the child has been safeguarded in accordance with administrative regulations promulgated by the cabinet.*
- (3) *If there is reason to believe a child is in imminent danger, or if a parent or caretaker of a child refuses the cabinet entry to a child's home or refuses to allow a child to be interviewed, the cabinet may request assistance:*
 - (a) *From law enforcement; or*
 - (b) *Through a request for a court order pursuant to KRS 620.040(5)(a).*
- (4) *A school or a child-care provider shall provide the cabinet access to a child subject to an investigation without parental consent.*

➔Section 2. Section 1 of this Act may be cited as the Tucker Act.

Signed by Governor April 11, 2017.

CHAPTER 189**(HB 330)**

AN ACT relating to tax increment financing and declaring an emergency.

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

➔Section 1. KRS 65.490 is amended to read as follows:

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

- (1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing a consolidated local government or a city of the first class, established under KRS Chapter 99; a development authority located within a county containing a consolidated local government or a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing a consolidated local government or a city of the first class; or a designated department, division, or office of a county containing a consolidated local government or of a city of the first class;
- (2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing a consolidated local government or a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing a consolidated local government or a city of the first class. "Development area" includes an existing economic development asset;
- (3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;
- (4) "Local government" means a county containing a consolidated local government or a city of the first class;
- (5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;
- (6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;
- (7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, any project undertaken in accordance with the provisions of KRS Chapter 58, or any "public project" as that term is defined in KRS 58.010 undertaken by a nonprofit corporation located within a county containing a consolidated local government or a city of the first class;
- (8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area;
- (9) "Taxing district" means a consolidated local government, a county containing a city of the first class, a city of the first class that encompasses all or part of a development area, or the state, but does not mean a school district; and
- (10) "Pilot program" means a tax increment financing program or a grant program created by an agency within a consolidated local government or a county containing a city of the first class which shall exist for a period of twenty (20) years, ***and may be extended for a period not to exceed an additional twenty-five (25) years as provided in Section 2 of this Act***~~after which time it shall continue only after reauthorization by the General Assembly~~.

➔SECTION 2. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) ***"Borrower" means the entity receiving the proceeds from a new bond issued because of an extended tax increment financing agreement allowed under subsection (10) of Section 1 of this Act;***

- (b) *"Excess revenues" means all moneys which exceed the costs associated with the borrower's operating expenses, capital expenditures, and the regularly scheduled debt service on the bond; and*
 - (c) *"Term of the bond" shall begin on the date any current bonds are refinanced, reissued, or restructured and shall end upon the earlier of the stated maturity date of the bond or the payment in full of the bond.*
- (2) *A pilot program may be extended for a period not to exceed an additional twenty-five (25) years in connection with the issuance of a new bond by the Kentucky Economic Development Finance Authority if the pilot program agreement contains provisions requiring that:*
- 1. *The borrower use all excess revenues to redeem the bond prior to the stated maturity date;*
 - 2. *a. Once the bond is callable, the borrower apply all excess revenues to the redemption of the bond prior to the stated maturity date at least every thirty-six (36) months; and*
b. If it is the position of the borrower that the application of all excess revenues to the redemption of the bond prior to the stated maturity date jeopardizes the project, the borrower shall present an alternative payment plan for that thirty-six (36) month period to the Capital Projects and Bond Oversight Committee for approval; and
 - 3. *No further revenues under the pilot program be remitted to the borrower following the end of the term of the bond.*
- (3) *The borrower shall submit a report to the Governor and the Capital Projects and Bond Oversight Committee on or before November 1, 2018, and annually thereafter regarding the operations and financial condition of the borrower.*

➔Section 3. Whereas it is imperative that negotiations for some tax increment financing agreements be reviewed as quickly as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 11, 2017.

CHAPTER 190

(HB 319)

AN ACT relating to elections and declaring an emergency.

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

➔Section 1. KRS 242.020 is amended to read as follows:

- (1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one (1) or more separate units, and shall be filed with the county clerk *in accordance with this section.*
- (2) *(a) Before a petition for election may be presented for signatures, an intent to circulate the petition, including a copy of the unsigned petition, shall be filed with the county clerk by any person or group of persons seeking the local option election.*
(b) After a petition for a local option election has received no fewer than the number of qualifying signatures required by subsection (1) of this section, the signed petition shall be filed with the county clerk.
(c) If the election is to be held on any day other than a primary or regular election date, a person or group of persons seeking the local option election shall post bond with the Circuit Court to cover all costs of the election within five (5) days after the signed petition is filed under paragraph (b) of this subsection. The cost of the election shall be established by the county judge/executive to determine the bond amount.

- (3) The petition for election, in addition to the **signature and legibly printed** name of ~~each~~^{the} voter, shall state also the voter's residence address, ~~year~~^{date} of birth, and the correct date upon which the voter's name was signed.
- (4)~~(3)~~ No signer **of the petition** may withdraw his or her name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without that person's authority, the person may appear before the county judge/executive before the election is ordered and upon proof that the person's name was placed on the petition without his or her authority, the person's name **and personal information required in subsection (3) of this section shall**~~may~~ be eliminated by an order of the county judge/executive. When the person's name **and personal information** has been eliminated, he or she shall not be counted as a petitioner.
- (5)~~(4)~~ A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of territory)?'". No petition for a referendum shall be circulated for more than six (6) months prior to its filing.
- (6)~~(5)~~ After a petition for election has been filed **in conformity with this section**, the county judge/executive shall make an order on the order book of the court directing **that the local option questions may be placed on the ballot for the next primary or regular**~~an~~ election to be held in that territory. **If the date of the local option election stated in the petition as provided in subsection (1) of Section 2 of this Act is a date other than a primary or regular election day, all election costs for such a local option election shall be borne by the person or group of persons who circulated the petition.**
- (7)~~(6)~~ Substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.

➔Section 2. KRS 242.030 is amended to read as follows:

- (1) The date of the local option election ~~shall~~^{may} be stated in the petition for **the local option** election.~~[If the date is not stated, it shall be designated by the county judge/executive.]~~
- (2) The local option election shall be held not earlier than sixty (60) ~~and not~~^{not} later than **one hundred fifty**~~(150)~~^{ninety (90)} days after the date the petition is filed with the county clerk.
- (3) The local option election ~~may~~^{shall not} be held on the same day that a primary or **regular**~~general~~ election is held in the territory~~[or any part of the territory, nor within thirty (30) days next preceding or following a regular political election].~~
- (4) A local option election in any territory less than the county ~~may~~^{shall not} be held on the same day on which an election for the entire county is held~~[except as approved in KRS 242.125].~~
- (5) No local option election shall be held in the same territory more than once in every three (3) years.
- (6) **In order for the local option election to be held on the day fixed by law for holding a primary, the petition shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the day on which the primary is to be held and not later than the last Tuesday in January preceding the day fixed by law for holding the primary.**
- (7) **In order for the local option election to be held on the day fixed by law for a regular election, the petition shall be filed not later than the second Tuesday in August preceding the day fixed by law for holding the regular election.**

➔Section 3. KRS 242.1242 is amended to read as follows:

- (1) (a) To promote economic development and tourism in any dry or moist county, **urban-county government, charter county, consolidated local government, unified local government**, or city, in which a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county, **urban-county government, charter county, consolidated local government, or unified local government** where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.
- (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'".

- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030~~[(1), (2), and (5)]~~; 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?".

➔Section 4. KRS 242.1244 is amended to read as follows:

- (1) (a) In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a dry or moist city,~~or~~ county, **urban-county government, charter county, consolidated local government, or unified local government** may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities that seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food if alcoholic beverages are purchased in conjunction with a meal. A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'".
- (b) The **local option** election shall be held in accordance with KRS 242.030~~[(1), (2), and (5)]~~, 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities, and the licensees may be regulated and taxed in accordance with KRS 243.072.
- (2) (a) In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a dry or moist city,~~or~~ county, **urban-county government, charter county, consolidated local government, or unified local government** may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food.
- (b) A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?'".
- (c) The **local option** election shall be held in accordance with KRS 242.030~~[(1), (2), and (5)]~~, 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with KRS 243.072.
- (3) A local option proposition under subsection (1) of this section is a separate proposition than a local option proposition held under subsection (2) of this section, so that a separate limited local option election is required for sales under each subsection. A territory may, by separate limited local option elections, simultaneously allow alcoholic beverage sales under subsections (1) and (2) of this section. A territory may also hold a limited local option election to allow alcoholic beverage sales under either subsection (1) or (2) of this section without authorizing alcoholic beverage sales under the other subsection.

➔Section 5. KRS 242.022 is amended to read as follows:

- (1) (a) To promote economic development and tourism in any dry or moist county, **urban-county government, charter county, consolidated local government, unified local government**, or city, in which a state park is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in a city,~~or~~ county, **urban-county government, charter county, consolidated local government,**

or unified local government, precinct where the state park's qualifying lodge or golf course is located, notwithstanding any other provision of the Kentucky Revised Statutes.

- (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under KRS 242.022 on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at the state park located in (name of precinct)'?"
- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030~~[(1), (2), and (5)]~~; 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at the state park located in the (name of precinct)'?"
- (3) When a majority of the votes cast at an election held under subsections (1) and (2) of this section are in favor of establishing moist territory, the entire state park shall become moist in the manner specified in KRS 242.200.

➔Section 6. KRS 117.075 is amended to read as follows:

- (1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, disability or illness, is not able to appear at the polls on election day may vote *by a mail-in absentee ballot pursuant to subsection (2) of this section or in person pursuant to Section 7 of this Act*~~in the following manner~~.
- (2) At least seven (7) days prior to the date of the election and prior to the close of normal business hours, *a qualified voter may*~~the shall~~ present to the *county* clerk by mail or in person his *or her* application for *a mail-in*~~an~~ absentee ballot containing a verified statement that his *or her* inability to appear is due to age, disability, or illness. The request for the *mail-in absentee ballot* application may be made by telephone, facsimile machine, mail, or in person. Within three (3) days of receipt of the request, the *county* clerk shall mail to the voter *a mail-in*~~an~~ absentee ballot and envelopes, and the voter shall cast his *or her* vote in accordance with KRS 117.086. The *mail-in absentee* ballot shall be returned by the voter to the county clerk by mail.
- ~~(3)(2)~~ Ballots furnished pursuant to the provisions of this section shall include the *slates of candidates and*~~names of~~ all candidates for which the voter is entitled to vote.

➔Section 7. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for *a mail-in*~~an~~ absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. *The county clerk shall transmit all applications for a mail-in absentee ballot*~~Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only~~ by mail to the voter or in person at the option of the voter, *except as provided in paragraph (b) of this subsection*~~except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail~~. The *mail-in* absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, those who are uniformed-service voters as defined in KRS 117A.010 that are confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, *mail-in* absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered.~~In the case of ballots returned by mail,~~ The county clerk shall provide *a mail-in*~~an~~ absentee ballot, two (2) official envelopes for returning the *mail-in absentee* ballot, and instructions for voting to a voter who presents a completed application for *mail-in*~~an~~ absentee ballot as provided in this section and who is properly registered as stated in his or her *mail-in absentee ballot* application.
- (a) *A qualified voter*~~The following voters~~ may apply to cast *his or her vote*~~their votes~~ by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election, *and if the voter is*:
 1. ~~Voters~~ Permitted to vote by *a mail-in* absentee ballot pursuant to KRS 117.075;
 2. *A resident*~~Voters who are Residents~~ of Kentucky who *is a*~~are~~ covered *voter*~~voters~~ as defined in KRS 117A.010;
 3. *A student*~~Voters who are Students~~ who temporarily *resides*~~reside~~ outside the county of *his or her*~~their~~ residence;

4. ~~{Voters who are}~~ Incarcerated in jail ~~and {who have been}~~ charged with a crime, but *has* ~~{have}~~ not been convicted of the crime;
 5. *Changing or has changed his or her* ~~{Voters who change their}~~ place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, *in which case the voter* ~~{who}~~ shall be permitted to cast *a mail-in* ~~{an}~~ absentee ballot for electors for President and Vice President of the United States only;
 6. ~~{Voters who}~~ Temporarily *residing* ~~{reside}~~ outside the state but ~~{who are}~~ still eligible to vote in this state;
 7. ~~{Voters who are}~~ Prevented from voting in person at the polls on election day and from casting an *in-person* absentee ballot ~~{in person}~~ in the county clerk's office on all days *in-person* absentee voting is conducted ~~{prior to election day}~~ because *his or her* ~~{their}~~ employment location requires *him or her* ~~{them}~~ to be absent from the county *of his or her residence* all hours and all days *in-person* absentee voting is conducted in the county clerk's office; ~~or {and}~~
 8. *A participant* ~~{Voters who are program Participants}~~ in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312.
- (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010 may apply for *a mail-in* ~~{an}~~ absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, by facsimile machine, or by means of the electronic transmission system established under KRS 117A.030(4). The *federal post-card* application may be used to register, reregister, and to apply for *a mail-in* ~~{an}~~ absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
- (c) *In-person* absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit *in-person* absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county *of his or her residence* who is not permitted to vote by *a mail-in* absentee ballot under paragraph (a) of this subsection who will be absent from the county *of his or her residence* on any election day may, at any time during normal business hours on those days *in-person* absentee voting is conducted in the county clerk's office, make application in person to the county clerk to *cast an in-person absentee* vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) *A qualified voter* ~~{The following voters}~~ may, at any time during normal business hours on those days *in-person* absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, *if the voter*:
1. *Is a resident* ~~{Voters who Are residents}~~ of Kentucky who *is a* ~~{are}~~ covered *voter* ~~{voters}~~ as defined in KRS 117A.010, who will be absent from the county *of his or her residence* on any election day;
 2. *Is a student* ~~{Voters who Are students}~~ who temporarily *resides* ~~{reside}~~ outside the county of *his or her* ~~{their}~~ residence;
 3. *Has* ~~{Voters who Have}~~ surgery, *or whose spouse has surgery*, scheduled that will require hospitalization on election day ~~{, and the spouse of the voter}~~;
 4. ~~{Voters who}~~ Temporarily *resides* ~~{reside}~~ outside the state, but *is* ~~{who are}~~ still eligible to vote in this state and ~~{who}~~ will be absent from the county *of his or her residence* on any election day;
 5. *Is a resident* ~~{Voters who Are residents}~~ of Kentucky who *is a* ~~{are}~~ uniformed-service *voter* ~~{voters}~~ as defined in KRS 117A.010 confined to a military base on election day, *learns* ~~{and who learn}~~ of that confinement within seven (7) days or less of an election, and *is* ~~{are}~~ not eligible for a *mail-in* ~~{paper}~~ absentee ballot under this subsection; ~~{and}~~

6. ~~Is [A voter who is a pregnant woman]~~ in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote; **or**
 7. ***Has not been declared mentally disabled by a court of competent jurisdiction and, on account of age, disability, or illness, is not able to appear at the polls on election day.***
- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an ***in-person*** absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, ***up to the close of normal business hours on the day before the election.***
 - (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while ***in-person*** absentee voting is being conducted in the county, ~~the [such]~~ officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. ~~Precinct election officers' [H] ease of such voters, the~~ verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
 - (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all ***in-person*** absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the ***in-person*** absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for ***in-person*** ~~the~~ absentee voting, the county clerk or deputy county clerks shall supervise the ***in-person*** absentee voting.
 - (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all ***in-person*** absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The ***county*** clerk shall type the name of the voter permitted to vote by ***mail-in*** absentee ballot on the ***mail-in absentee ballot*** application form for that person's use and no other. The ***mail-in*** absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for ~~a mail-in [an]~~ absentee ballot. The ***mail-in absentee ballot application*** form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the ***mail-in absentee ballot application form*** ~~[application]~~.
 - (3) If the county clerk finds that the voter is properly registered as stated in his or her ***mail-in absentee ballot application form*** ~~[application]~~ and qualifies to receive ~~a mail-in [an]~~ absentee ballot by mail, he or she shall mail to the voter ~~a mail-in [an]~~ absentee ballot, two (2) official envelopes for returning the ***mail-in absentee*** ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ***mail-in absentee*** ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ***mail-in absentee*** ballots are mailed. ~~A mail-in [An]~~ absentee ballot may be transmitted by facsimile

machine or by the electronic transmission system established under KRS 117A.030(4) to a covered voter as defined in KRS 117A.010. The covered voter shall be notified of the options for transmittal of the **mail-in** absentee ballot, and the **mail-in** absentee ballot shall be transmitted by the method chosen for receipt by the resident of Kentucky who is a covered voter.

- (4) **Mail-in** absentee ballots which are requested prior to the printing of the **mail-in absentee** ballots shall be mailed or otherwise transmitted as provided in subsection (3) of this section by the county clerk to the voter within three (3) days of the receipt of the printed ballots. ~~[- and] Mail-in absentee ballots[- which are]~~ requested **after** ~~[subsequent to]~~ the receipt of the ballots by the county clerk shall be mailed or otherwise transmitted as provided in subsection (3) of this section to the voter within three (3) days of the receipt of the request.
- (5) The **county** clerk shall cause **mail-in absentee** ballots to be printed fifty (50) days prior to each primary or regular election, and forty-five (45) days prior to a special election.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The **county** clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The **county** clerk shall retain the **mail-in ballot application form** ~~[application]~~ and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received **a mail-in** ~~[an]~~ absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in **his or her county of residence** ~~[the county]~~ on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her **mail-in** absentee ballot and vote in person. The voter shall return the **mail-in** absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the **mail-in** absentee ballot, the **county** clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The **county** clerk shall remove the voter's name from the list of persons who were sent **mail-in** absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in **absentee** ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second **mail-in absentee** ballot. The county clerk shall keep a record of the **mail-in** absentee ballots issued and returned by mail, and the **in-person** absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the **county** clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any covered voter as defined in KRS 117A.010 who has received **a mail-in** ~~[an]~~ absentee ballot but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her **mail-in** absentee ballot and vote in person. The voter shall return the **mail-in** absentee ballot to the county clerk's office on or before election day. Upon the return of the **mail-in** absentee ballot, the **county** clerk shall mark on the outer envelope of the sealed **mail-in absentee** ballot or the unmarked **mail-in absentee** ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. If the covered voter is unable to return the **mail-in** absentee ballot to the county clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245. The **county** clerk shall remove the voter's name from the list of persons who were sent **mail-in** absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.
- (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for **a mail-in** ~~[an]~~ absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for **mail-in** absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for **a mail-in** ~~[an]~~ absentee ballot.

➔Section 8. Whereas, the cost of local option elections has burdened local fiscal court budgets to the breaking point and it is necessary to permit local option elections to be held at the same time that primaries and regular elections are scheduled in order to relieve local governments of this burden, an emergency is hereby declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 11, 2017.

CHAPTER 191

(HB 309)

AN ACT relating to domestic relations.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

- (1)
 - (a) *This section shall apply only to leases or rental agreements created or renewed on or after the effective date of this Act.*
 - (b) *A person who is both a named individual and a protected tenant shall not be eligible for the protections under this section.*
- (2) *As used in this section:*
 - (a) *"Named individual" means a person identified in the protective orders listed in paragraph (b) of this subsection as restrained from contact with the protected tenant; and*
 - (b)
 1. *"Protected tenant" means a residential rental or leased housing tenant, applicant for tenancy, or a tenant with a minor household member, who is protected by a valid:*
 - a. *Domestic violence order issued pursuant to KRS 403.740 which restrains the adverse party from any unauthorized contact; or*
 - b. *Interpersonal protective order issued pursuant to KRS 456.060 which restrains the adverse party from any unauthorized contact.*
 2. *For purposes of subsections (3) and (4) of this section, "protected tenant" also means a residential rental or leased housing tenant, applicant for tenancy, or a tenant with a minor household member who is protected by a valid:*
 - a. *Emergency protective order issued pursuant to KRS 403.730;*
 - b. *Temporary interpersonal protective order issued pursuant to KRS 456.040; or*
 - c. *Pretrial release no contact order issued pursuant to KRS 431.064.*
- (3)
 - (a) *A landlord shall not terminate, fail to renew, refuse to enter into, or otherwise retaliate in the renting or leasing of a residence because of the person's status as a protected tenant.*
 - (b) *It shall be a defense to an action for possession of a rented or leased residential property if the court determines that:*
 1. *The tenant is a protected tenant; and*
 2. *The notice to vacate is substantially based on acts which violated the tenant's protective order or led to the issuance of a protective order listed in subsection (2) of this section, including an action for possession based on complaints of noise, disturbances, or repeated presence of peace officers.*
- (4)
 - (a)
 1. *After informing the landlord of an intention to install a new lock, a protected tenant at his or her expense, may install a new lock to his or her dwelling by:*
 - a. *Rekeying the lock if the lock is in good working condition; or*

3. *Action for damages against the named individual for any unpaid rent owed by the named individual or any damages resulting from a violation of a valid protective order listed in subsection (2)(b)1. of this section.*
 - (7) *Notwithstanding the release of a protected tenant or an exclusion of a named individual from a lease or rental agreement under this section, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants.*
 - (8) *A landlord is immune from civil liability if the landlord in good faith acts in accordance with this section.*
- ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:
- (1) *A landlord shall not include in a residential rental agreement or lease for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a tenant for requests made by the tenant for assistance from peace officers or other assistance in response to emergencies.*
 - (2) *A residential rental agreement or lease provision prohibited by subsection (1) of this section is unenforceable. If a landlord enforces a rental agreement or lease containing provisions known by the landlord to be prohibited by this section, the tenant may recover actual damages sustained by the tenant, reasonable attorney's fees, and all other costs incurred in bringing the action, and punitive damages of not more than two (2) months of periodic rent.*
 - (3) *This section shall apply only to leases or rental agreements created or renewed on or after the effective date of this Act.*

➔Section 3. KRS 209A.010 is repealed, reenacted, and amended to read as follows:

The purpose of this chapter is to identify victims of domestic violence ~~and~~ ~~abuse~~ *and dating violence and abuse, to link those victims to services* ~~for neglect inflicted by a spouse~~, and to provide *protective or therapeutic services for those who choose to accept them* ~~for the protection of adults who choose to access those services. A victim of domestic violence who has a mental or physical disability or who cannot carry out the activities of daily living or protect himself or herself without the assistance of others may be served under the provisions of KRS Chapter 209~~.

➔Section 4. KRS 209A.020 is repealed, reenacted, and amended to read as follows:

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

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Dating violence and abuse" has the same meaning as in KRS 456.010;*
- (3) *"Domestic violence and abuse" has the same meaning as in KRS 403.720;*
- (4) *"Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city, or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as a sheriff, sworn deputy sheriff, campus police officer, law enforcement support personnel, public airport authority security officer, other public and federal peace officer responsible for law enforcement, special local peace officer appointed pursuant to KRS 61.360, school resource officer, public school district security officer, and any other enforcement officer as defined by law;*
- (5) *"Professional" means a physician, osteopathic physician, coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, child-care personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate, or any organization or agency employing any of these professionals;*
- (6) *"Victim" means an individual who is or has been abused by a spouse or former spouse or an intimate partner who meets the definition of a member of an unmarried couple as defined in KRS 403.720, or a member of a dating relationship as defined in KRS 456.010; and*
- (7) *"Victim advocate" has the same meaning as in KRS 421.570* ~~"Secretary" means the secretary of the Cabinet for Health and Family Services;~~
- ~~(2) "Cabinet" means the Cabinet for Health and Family Services;~~
- ~~(3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;~~

- (4) ~~"Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;~~
- (5) ~~"Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;~~
- (6) ~~"Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;~~
- (7) ~~"Investigation" shall include but is not limited to a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;~~
- (8) ~~"Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);~~
- (9) ~~"Neglect" means a situation in which a person deprives his or her spouse of reasonable services to maintain health and welfare; and~~
- (10) ~~"Authorized agency" means:~~
 - (a) ~~The Cabinet for Health and Family Services;~~
 - (b) ~~A local law enforcement agency or the Department of Kentucky State Police; or~~
 - (c) ~~The office of a Commonwealth's attorney or county attorney}.~~

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the request of a victim, a professional shall report an act of domestic violence and abuse or dating violence and abuse to a law enforcement officer.*
- (2) *A professional who makes a report under this chapter shall discuss the report with the victim prior to contacting a law enforcement officer.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

- (1) *A professional shall report to a law enforcement officer his or her belief that the death of a victim with whom he or she has had a professional interaction is related to domestic violence and abuse or dating violence and abuse.*
- (2) *Nothing in this chapter shall relieve a professional of the duty pursuant to KRS 620.030 to report any known or suspected abuse, neglect, or dependency of a child.*
- (3) *Nothing in this chapter shall relieve a professional of the duty pursuant to KRS 209.030 to report to the cabinet any known or suspected abuse, neglect, or exploitation of a person eighteen (18) years of age or older who because of mental or physical dysfunction is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

- (1) *If a law enforcement officer receives a report of domestic violence and abuse or dating violence and abuse, the officer shall use all reasonable means to provide assistance as required under KRS 403.785 and 456.090.*
- (2) *A law enforcement officer who responds to a report of domestic violence and abuse or dating violence and abuse shall use the JC-3 form, or its equivalent replacement, as provided by the Justice and Public Safety Cabinet to document any information or injuries related to the domestic violence and abuse or dating violence and abuse.*
- (3) *A completed JC-3 form, or its equivalent replacement, shall be kept in the records of the law enforcement officer's agency of employment.*
- (4) *If the JC-3 form, or its equivalent replacement, includes information that only relates to a victim as defined in Section 4 of this Act, the form shall not be forwarded to the cabinet.*

- (5) *If the JC-3 form, or its equivalent replacement, includes information on known or suspected child abuse or neglect or the abuse or neglect of an elderly or disabled adult, the form shall be forwarded to the cabinet.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

- (1) *If a professional has reasonable cause to believe that a victim with whom he or she has had a professional interaction has experienced domestic violence and abuse or dating violence and abuse, the professional shall provide the victim with educational materials related to domestic violence and abuse or dating violence and abuse including information about how he or she may access regional domestic violence programs under KRS 209.160 or rape crisis centers under KRS 211.600 and information about how to access protective orders.*
- (2) *A nonprofit corporation designated by the cabinet pursuant to Section 13 of this Act as a primary service provider for domestic violence shelter, crisis, and advocacy services in the district in which the provider is located shall make the educational materials required under this section available on its Web site or in print form for professionals to provide to possible victims of domestic violence and abuse or dating violence and abuse.*

➔Section 9. KRS 209A.030 is repealed, reenacted, and amended to read as follows:

- ~~(1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services for safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.~~
- ~~(2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.~~
- ~~(3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect of an adult.~~
- ~~(4) Any person making such a report shall provide the following information, if known:~~
- ~~(a) The name and address of the adult;~~
 - ~~(b) The age of the adult;~~
 - ~~(c) The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect;~~
 - ~~(d) The identity of the perpetrator, if known;~~
 - ~~(e) The identity of the complainant, if possible; and~~
 - ~~(f) Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.~~
- ~~(5) Upon receipt of the report, the cabinet shall take the following action:~~
- ~~(a) Notify the appropriate law enforcement agency, if indicated;~~
 - ~~(b) Initiate an investigation of the complaint; and~~
 - ~~(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.~~
- ~~(6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.~~
- ~~(7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect investigation under subsection (5) of this section shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.~~
- ~~(8) Any representative of the cabinet may with consent of the adult enter any private premises where any adult alleged to be abused or neglected is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter.~~

- (9) ~~If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.~~
- (10) ~~In the event the adult elects to accept the protective services to be provided by the cabinet, no other person shall interfere with the cabinet when rendering such services.~~
- (11) ~~Anyone~~ **A professional** knowingly or wantonly violating the provisions of **this chapter** ~~[subsection (2) of this section]~~ shall be guilty of a Class B misdemeanor and penalized in accordance with KRS 532.090. Each violation shall constitute a separate offense.

➔Section 10. KRS 209A.050 is repealed, reenacted, and amended to read as follows:

Anyone acting upon reasonable cause in **complying with the provisions of** ~~the making of any report or investigation pursuant to~~ this chapter ~~[, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority,]~~ shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such **compliance** ~~[report or investigation and such immunity shall apply to those who render protective services in good faith pursuant to the consent of the adult].~~

➔Section 11. KRS 209A.060 is repealed, reenacted and amended to read as follows:

Neither the **psychotherapist** ~~[psychiatrist]~~ patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the **domestic violence and abuse or dating violence and abuse** ~~[abuse, neglect, or exploitation of an adult]~~ or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

➔Section 12. KRS 209A.070 is repealed, reenacted, and amended to read as follows:

All ~~[records, requests for services, and reports that contain]~~ information that identifies a current or former client of a domestic violence program ~~is~~ **are** confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client **information** ~~[records, requests for services, and reports]~~ relating to any domestic violence program for the limited purpose of monitoring the program.

➔Section 13. KRS 209.160 is repealed and reenacted as a new section of KRS Chapter 209A to read as follows:

- (1) There is hereby created a trust and agency account in the State Treasury to be known as the domestic violence shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars (\$10) from each twenty-four dollars (\$24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Department of Revenue. The Cabinet for Health and Family Services shall use the funds for the purpose of providing protective shelter services for domestic violence victims.
- (2) The Cabinet for Health and Family Services shall designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

➔Section 14. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.

- (4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:
- (a) Basic treatment and sample gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8) (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
- (b) Upon receipt of a completed claim form supplied by the board and an itemized billing for a forensic sexual assault examination or related services that are within the scope of practice of the respective provider and were performed no more than twelve (12) months prior to submission of the form, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
- (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.
- (10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child ~~or a spouse, and other~~ vulnerable adult is required, as set forth in KRS 209.030~~, 209A.030,~~ and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.
- (b) If the victim chooses to report to law enforcement, the hospital shall notify law enforcement within twenty-four (24) hours.
- (c) 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.

3. All samples collected pursuant to this section shall be stored for at least one (1) year from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.
4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within one (1) year after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. The victim shall be informed of this process at the time of the examination. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

➔Section 15. KRS 403.785 is amended to read as follows:

- (1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
- (2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:
 - (a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;
 - (b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and
 - (c) Advising the victim immediately of the rights available to them *as provided in KRS 421.500*, including the provisions of this chapter.
- (3) Orders of protection shall be enforced in any county of the Commonwealth.
- (4) Officers acting in good faith under this section shall be immune from criminal and civil liability.
- ~~[(5) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Health and Family Services, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.]~~

➔Section 16. The following KRS sections are repealed:

209A.040 Cabinet's authority to promulgate administrative regulations on general adult services.

209A.080 Confidentiality of spousal abuse or neglect investigation information -- Exceptions.

Signed by Governor April 11, 2017.

CHAPTER 192

(HB 277)

AN ACT relating to local boards of education.

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

➔Section 1. KRS 160.180 is amended to read as follows:

- (1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, **and** daughter~~-, aunt, uncle, son-in-law, and daughter-in-law~~.
- (2) No person shall be eligible to membership on a board of education:
 - (a) Unless he has attained the age of twenty-four (24) years; and
 - (b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

- (c) Unless he has completed at least the twelfth grade or has been issued a GED certificate or has received a high school diploma through participation in the external diploma program and he is elected after July 13, 1990; and
 - (d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or
 - (e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or
 - (f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or
 - (g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or
 - (h) Who has been removed from membership on a board of education for cause; or
 - (i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.
- (3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.
- (4) A board member shall be eligible for reelection unless he becomes disqualified.
- (5) The annual in-service training requirements for all school board members in office as of December 31, 2014, shall be as follows:
- (a) Twelve (12) hours for school board members with zero to three (3) years of experience;
 - (b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and
 - (c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement.

- (6) (a) For all board members who begin their initial service on or after January 1, 2015, the annual in-service training requirements shall be twelve (12) hours for school board members with zero to eight (8) years of experience and eight (8) hours for school board members with more than eight (8) years of experience.
- (b) Training topics for school board members shall include:
 - 1. Three (3) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with zero to three (3) years' experience;
 - 2. Two (2) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with four (4) to seven (7) years' experience; and
 - 3. One (1) hour of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation biennially for members with eight (8) or more years' experience.

The Kentucky Board of Education shall identify criteria for fulfilling this requirement.

Signed by Governor April 11, 2017.

(SB 235)

AN ACT relating to business entities.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 4 OF KRS CHAPTER 14A IS CREATED TO READ AS FOLLOWS:

Excepting the actions provided in KRS 452.400, 452.405, 452.410, 452.415, 452.420, 452.430, 452.440, 452.445, 452.465, and 452.475, an action against an entity or foreign entity that maintains a registered office may be brought in the county in which the office is situated.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) *On application by the limited liability company, a person is expelled as a member by judicial order:*
 - (a) *If the person has engaged or is engaging in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;*
 - (b) *If the person has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under KRS 275.170;*
 - (c) *If the person has engaged or is engaging in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member; or*
 - (d) *For such other reasons as are set forth in a written agreement.*
- (2) *Upon the effective date of the expulsion, the expelled member shall be dissociated from and cease to be a member of the company and with respect to the expelled member's limited liability company interest shall be an assignee.*
- (3) *Except as set forth in a written operating agreement, the dissociation of a member in accordance with this section does not entitle the former member or any assignee to any distribution.*

➔Section 3. KRS 14A.1-070 is amended to read as follows:

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

- (1) "Business" includes every trade, occupation, and profession;
- (2) "Corporation" means a business corporation governed as to its internal affairs by KRS Chapter 271B, a cooperative or association governed as to its internal affairs by KRS Chapter 272, a nonprofit corporation governed as to its internal affairs by KRS Chapter 273, and a rural electric or rural telephone cooperative corporation governed as to its internal affairs by KRS Chapter 279;
- (3) "Business trust" means a business trust governed as to its internal affairs by KRS Chapter 386 or a statutory trust governed as to its internal affairs by KRS Chapter 386A;
- (4) "Debtor in bankruptcy" means a person who is the subject of:
 - (a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) A comparable order under federal, state, or foreign law governing insolvency;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (7) "Entity" means a corporation, business *or statutory* trust, partnership, limited partnership, ~~or~~ limited liability company, *limited cooperative association, or unincorporated nonprofit association*, governed as to its internal affairs by the laws of the Commonwealth of Kentucky;
- (8) "Foreign business trust" means a business or statutory trust not governed as to its internal affairs by KRS Chapter 386 or 386A;
- (9) "Foreign corporation" means a corporation as defined in subsection (2) of this section that is not:

- (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
- (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (10) "Foreign entity" means a corporation, not-for-profit corporation, cooperative, **limited cooperative association**, association, business or statutory trust, partnership, limited partnership, ~~or~~ limited liability company, **or unincorporated nonprofit association** not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (11) "Foreign limited cooperative association" means a limited cooperative association that is not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (12) "Foreign limited liability partnership" means a partnership that:
 - (a) Is formed under laws other than the laws of this Commonwealth; and
 - (b) Has the status of a limited liability partnership under those laws;
- (13) "Foreign professional service corporation" has the same meaning as in KRS 274.005;
- (14) "Foreign rural electric cooperative" means a rural electric cooperative organized otherwise than under KRS 279.010 to 279.210;
- (15) "Foreign rural telephone cooperative" means a rural telephone cooperative organized otherwise than under KRS 279.310 to 279.990 excepting 279.570;
- (16) **"Foreign unincorporated nonprofit association" means an unincorporated nonprofit association that is not:**
 - (a) Organized in accordance with the laws of the Commonwealth of Kentucky; or**
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;**
- (17) "Good standing" means that all annual reports which are required to be received from an entity or foreign entity have been delivered to and filed by the Secretary of State, that all other lawfully required statutory documentation has been received and filed, and that all fees, costs, and expenses, including penalties incurred in connection therewith, have been paid;
- ~~(18)~~~~(17)~~ "Limited cooperative association" means a limited cooperative association governed as to its **internal** affairs by KRS Chapter 272A;
- ~~(19)~~~~(18)~~ "Limited liability company" has the same meaning as in KRS 275.015;
- ~~(20)~~~~(19)~~ "Limited liability partnership" means a partnership that has filed a statement of qualification under KRS 362.1-931 or a registration as a registered limited liability partnership under KRS 362.555 and does not have a similar statement ~~or~~ registration in effect in any other jurisdiction;
- ~~(21)~~~~(20)~~ "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity or foreign entity;
- ~~(22)~~~~(21)~~ "Nonprofit corporation," other than in the term "foreign nonprofit corporation," means a nonprofit corporation incorporated pursuant to and governed as to its internal affairs by KRS Chapter 273 or predecessor law;
- ~~(23)~~~~(22)~~ "Organic act" means the law of a state or other jurisdiction governing the organization and internal affairs of an entity or foreign entity;
- ~~(24)~~~~(23)~~ "Organized" means organized, incorporated, or formed;
- ~~(25)~~~~(24)~~ "Organizational filing" means a filing made with the Secretary of State as a precondition to the formation, organization, or incorporation of an entity, including articles of incorporation, articles of organization, articles of association, certificates of trust, and certificates of limited partnership. A statement of qualification filed pursuant to KRS 362.1-931 or a registration as a limited liability partnership filed pursuant to KRS 362.555 is not an organizational filing;

- (26)~~((25))~~ "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under KRS 362.1-202, predecessor law, or comparable law of another jurisdiction;
- (27)~~((26))~~ "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement;
- (28)~~((27))~~ "Person" means an individual, an entity, a foreign entity, or any other legal or commercial entity;
- (29)~~((28))~~ "Principal office" means the address required by this chapter or the organic act to be of record with the Secretary of State as the principal office, the principal place of business address, the designated office of a limited partnership, or the chief executive office of a limited liability partnership;
- (30)~~((29))~~ "Professional service corporation" has the same meaning as in KRS 274.005;
- (31)~~((30))~~ "Professional services" means the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;
- (32)~~((31))~~ "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein;
- (33)~~((32))~~ "Qualified person" has the same meaning as in KRS 274.005;
- (34)~~((33))~~ "Registered agent" means a registered agent appointed in accordance with KRS 14A.4-010 or predecessor law, and is synonymous with agent for service of process;
- (35) ***"Registered office" means the registered office identified in accordance with and satisfying the requirements of KRS 14A.4-010(1)(b). The registered office address must be a street address;***
- (36)~~((34))~~ "Regulatory board" means the agency that is charged by law with the licensing and regulation of the practice of the profession which the ***entity***~~professional partnership~~ is organized to provide;
- (37)~~((35))~~ "Rural electric cooperative" means a rural electric cooperative governed as to its internal affairs by KRS 279.010 to 279.210;
- (38)~~((36))~~ "Rural telephone cooperative" means a rural telephone cooperative governed as to its internal affairs by KRS 279.310 to 279.990 excepting KRS 279.570;
- (39)~~((37))~~ "Series entity" means an entity or a foreign entity authorized and enabled by its organic act and organizational filing to create series having separate rights, powers, or duties with respect to specific property or obligations of the series entity, or the profits and losses associated with specific property or obligations;
- (40)~~((38))~~ "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature;
- (41)~~((39))~~ "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States;~~and~~
- (42)~~((40))~~ "Statutory trust" means a trust governed as to its internal affairs by KRS Chapter 386A; ***and***
- (43) ***"Unincorporated nonprofit association" means an unincorporated nonprofit association governed as to its internal affairs by KRS Chapter 273A.***

➔Section 4. KRS 14A.2-060 is amended to read as follows:

- (1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:
- (a) Application for use of indistinguishable name\$ 20
 - (b) Application or renewal of application for reserved name\$ 15
 - (c) Cancellation of application for reserved name\$ 10
 - (d) Notice of transfer of reserved name\$ 15
 - (e) Application for registered name\$ 36
 - (f) Application for renewal of registered name\$ 36
 - (g) Statement of change of registered office or registered agent, or both\$ 10
 - (h) Statement of change of principal office address\$ 10

- (i) Agent's statement of change of registered office for each affected entity or foreign entity\$ 10
not to exceed a total of\$2,000
- (j) Reinstatement penalty following administrative dissolution\$ 100
- (k) Application for certificate of authority\$ 90
- (l) Application for amended certificate of authority\$ 40
- (m) Certificate of withdrawal\$ 40
- (n) Certificate of existence\$ 10
- (o) Certificate of authorization\$ 10
- (p) Any other document required or permitted to be filed by this chapter\$ 15
- (q) Agent's statement of resignation No fee
- (r) Certificate of administrative dissolution No fee
- (s) Certificate of reinstatement No fee
- (t) Certificate of revocation of authority to transact business No fee
- (u) ***Certificate of association.....\$ 15***
- (2) The Secretary of State shall collect a fee of fifteen dollars (\$15) with respect to each annual report or amendment thereto.
- (3) The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on him or her under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.
- (4) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign entity:
 - (a) Five dollars (\$5) per request for the first five (5) pages and fifty cents (\$0.50) a page for each page thereafter; and
 - (b) Five dollars (\$5) for the certificate.

➔Section 5. KRS 14A.6-010 is amended to read as follows:

- (1) Each entity and each foreign entity authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that sets forth:
 - (a) The name of the entity or foreign entity and the state or country under whose law it is organized;
 - (b) The address of its registered office and the name of its registered agent at that office in this Commonwealth;
 - (c) The address of its principal office; and
 - (d) With respect to each:
 - 1. Corporation, not-for-profit corporation, cooperative, association, or limited cooperative association, whether domestic or foreign:
 - a. The name and business address of the secretary or other officer with responsibility for authenticating the records of the entity;
 - b. The name and business address of each other principal officer; and
 - c. The name and business address of each director;
 - 2. Manager-managed limited liability company, whether domestic or foreign, the name and business address of each manager;
 - 3. Limited partnership, whether domestic or foreign, the name and business address of each general partner;

4. Business trust, whether domestic or foreign, the name and business address of each trustee;~~and~~
 5. Professional service corporation, domestic or foreign, a statement that each of the shareholders, not less than one-half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person; *and*
 6. *Unincorporated nonprofit association, the name and business address of each manager.*
- (2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the entity or foreign entity.
 - (3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which an entity was organized or a foreign entity was authorized to transact business in this state. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of each following calendar year.
 - (4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the entity or foreign entity in writing and return the report to it for correction, which notification may be accomplished electronically. For purposes of KRS 14A.2-130 or 14A.2-140, an annual report returned for correction shall not be deemed to have been delivered until it is returned and accepted by the Secretary of State.
 - (5) An entity or foreign entity may amend the information in its last filed annual report by delivery of an amendment to the annual report to the Secretary of State for filing on such form as is provided by the Secretary of State.
 - (6) An unincorporated nonprofit association that has filed a certificate of association is subject to this section.
 - (7) The requirement to file an annual report shall not apply to:
 - (a) A limited partnership governed as to its internal affairs by the Kentucky Uniform Limited Partnership Act as it existed prior to its repeal by 1988 Ky. Acts ch. 284, sec. 65;
 - (b) A partnership other than a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-951 or a foreign limited liability partnership;
 - (c) A foreign rural electric cooperative or foreign rural telephone cooperative not required to qualify to transact business by a filing with the Secretary of State; or
 - (d) An unincorporated nonprofit association that has not filed a certificate of association.

➔Section 6. KRS 271B.8-530 is amended to read as follows:

- (1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:
 - (a)~~— The director furnishes the corporation a written affirmation of his good faith belief that he has met the standard of conduct described in KRS 271B.8-510;~~
 - ~~(b)}~~ The director furnishes the corporation a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct; and
 - ~~(b)(c)}~~ A determination is made that the facts then known to those making the determination would not preclude indemnification under KRS 271B.8-500 to 271B.8-580.
- (2) The undertaking required by subsection (1)(a)~~(b)}~~ of this section shall be an unlimited general obligation of the director but shall not be required to be secured and may be accepted without reference to financial ability to make repayment.
- (3) Determinations and authorizations of payments under this section shall be made in the manner specified in KRS 271B.8-550.

➔Section 7. KRS 271B.8-550 is amended to read as follows:

- (1) A corporation shall not indemnify a director under KRS 271B.8-510 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in KRS 271B.8-510.
- (2) The determination shall be made:

- (a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;
 - (b) If a quorum cannot be obtained under subsection (2)(a) of this section, by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two (2) or more directors not at the time parties to the proceeding;
 - (c) By special legal counsel:
 - 1. Selected by the board of directors or its committee in the manner prescribed in subsection (2)(a) and (b) of this section; or
 - 2. If a quorum of the board of directors cannot be obtained under subsection (2)(a) of this section and a committee cannot be designated under subsection (2)(b) of this section, selected by majority vote of the full board of directors (in which selection directors who are parties may participate); or
 - (d) By the shareholders, but shares owned by or voted under the control of directors *or shareholders* who are at the time parties to the proceeding shall not be voted on the determination.
- (3) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (2)(c) of this section to select counsel.

➔Section 8. KRS 271B.10-200 is amended to read as follows:

- (1) A corporation's board of directors may amend or repeal the corporation's bylaws unless:
 - (a) The articles of incorporation or this chapter reserve this power exclusively to the shareholders in whole or part; or
 - (b) The shareholders in amending or repealing a particular bylaw provide expressly that the board of directors may not amend or repeal that bylaw.
- (2) A corporation's shareholders may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors.
- (3) ***A shareholder of the corporation shall not have a vested property right resulting from any provision in the bylaws.***

➔Section 9. KRS 272A.6-050 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a member or the assignee of a member may satisfy a judgment out of the judgment debtor's limited financial rights in a limited cooperative association.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a member or a member's assignee, a court may charge the judgment debtor's financial rights in the association with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a transferee and shall have no right to participate in the management or to cause the dissolution of the association. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the financial rights and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's financial rights. A charging order does not of itself constitute an assignment of the financial rights.
- (4) The court may order a foreclosure upon the financial rights subject to the charging order at any time. The purchaser of the financial rights at the foreclosure sale has the rights of a transferee. At any time before foreclosure, the charged financial rights may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than property of the association, by one (1) or more of the other members; and
 - (c) With association property, by the association with the consent of all members whose financial rights are not so charged.

- (5) This section does not deprive a member or a member's assignee of the benefit of any exemption laws applicable to the member's or assignee's financial rights.
- (6) The association is not a necessary part to an application for a charging order. Service of the charging order on an association may be made by the court granting the charging order or as the court should otherwise direct.
- (7) ***This section does not apply to the enforcement of a judgment by a limited cooperative association against a member of that association.***
- (8) ***This section shall apply to the issuance of a charging order against the interest of a member or assignee of a member of a foreign limited cooperative association.***

➔Section 10. KRS 273A.040 is amended to read as follows:

- (1) A judgment or order against an unincorporated nonprofit association is not by itself a judgment or order against a member or manager.
- (2) Pursuant to this chapter, a judgment creditor of an unincorporated nonprofit association shall not levy execution against the assets of a member to satisfy a judgment based on a claim against the association unless:
 - (a) A judgment based on the same claim has been obtained against the association and a writ of execution on the judgment has been returned unsatisfied in whole or in part;
 - (b) The association is a debtor in bankruptcy;
 - (c) The member has agreed that the creditor need not exhaust association assets; or
 - (d) Liability is imposed on the member by law or contract independent of the existence of the association.
- (3) ***Subsection (2) of this section shall not apply to any judgment or order for which the members are not liable in accordance with KRS 273A.030(1).***

➔Section 11. KRS 275.015 is amended to read as follows:

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

- (1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated;
- (2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;
- (3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;
- (4) "Court" means every court having jurisdiction in the case;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Dissent" means a right to object to a proposed action or transaction and, in connection therewith, to demand a redemption of a limited liability company interest;
- (7) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (8) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280;
- (9) "Foreign limited liability company" means an organization that is:
 - (a) An unincorporated association;
 - (b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and
 - (c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;
- (10) "Foreign nonprofit corporation" means a corporation incorporated for a nonprofit purpose under the laws of a state other than the Commonwealth or under the laws of a foreign country;

- (11) "Knowledge" means actual knowledge of a fact;
- (12) "Limited liability company" or "domestic limited liability company" means a limited liability company formed under this chapter and, except with respect to a nonprofit limited liability company, having one (1) or more members;
- (13) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195;
- (14) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country;
- (15) "Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in KRS 275.175(3);
- (16) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165;
- (17) "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280 **or Section 2 of this Act**;
- (18) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;
- (19) "Nonprofit limited liability company" means a limited liability company formed for a nonprofit purpose having one (1) or more or no members ***that has elected in its articles of organization to be treated as a nonprofit limited liability company in accordance with KRS 275.025(6)***;
- (20) "Nonprofit purpose" includes any purpose authorized under KRS 273.167;
- (21) "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:
 - (a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or
 - (b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing;
- (22) "Person" means an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity;
- (23) "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located;
- (24) "Proceeding" means civil suit and criminal, administrative, and investigative action;
- (25) "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies;
- (26) "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;
- (27) "Real name" shall have the meaning set forth in KRS 365.015;
- (28) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide; and
- (29) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

➔Section 12. KRS 275.175 is amended to read as follows:

- (1) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, the affirmative vote, approval, or consent of a majority-in-interest of the members or a simple majority of the managers, each having a single vote, shall be required to decide any matter connected with the business affairs of the limited liability company.
- (2) Unless otherwise provided in a written operating agreement, irrespective of whether management of the limited liability company is vested in a manager or managers, the affirmative vote, approval, or consent of the members shall be required to:
 - (a) Amend a written operating agreement;
 - (b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes an operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof;
 - (c) Amend the articles of organization;
 - (d) Merge or convert the limited liability company or approve a sale of all or substantially all of its assets;
 - (e) Admit a new member, including the assignee of a member, as a member;
 - (f) Remove a member after the assignment of all assignable interest in the limited liability company;
 - (g) Waive an agreement to contribute to the limited liability company;
 - (h) Approve the voluntary dissolution of the limited liability company;
 - (i) Approve any acting contravention of a written operating agreement; or
 - (j) Allow the voluntary resignation of a member from a manager-managed limited liability company.
- (3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.
- (4) In a nonprofit limited liability company that does not have members, the capacity and authority to manage the business and affairs of the company shall be set forth in a written operating agreement.
- (5) Unless otherwise provided in the articles of organization or the written operating agreement, no member of a limited liability company shall have the right to dissent from an amendment to the operating agreement or the articles of organization.
- (6) *An operating agreement may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum, and voting requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote, approve, or consent.*
- (7) *Except as otherwise provided in a written operating agreement, an action requiring the vote, approval, or consent of the members may be taken without a meeting and without prior notice if the vote, approval, or consent is set forth in a writing approved by not less than the necessary number, percentage, or threshold of members, interests, or votes.*

➔Section 13. KRS 275.260 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a member or the assignee of a member may satisfy a judgment out of the judgment debtor's limited liability company interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a member or a member's assignee, a court may charge the judgment debtor's interest in the limited liability company with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of an assignee and shall have no right to participate in the management or to cause the dissolution of the limited liability company. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited liability company interest and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's limited liability company interest. A charging order does not of itself constitute an assignment of the limited liability company interest.
- (4) The court may order a foreclosure upon the limited liability company interest subject to the charging order at any time. The purchaser of the limited liability company interest at the foreclosure sale has the rights of an assignee. At any time before foreclosure, the charged limited liability company interest may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than limited liability company property, by one (1) or more of the other members; and
 - (c) With limited liability company property, by the limited liability company with the consent of all members whose interest are not so charged.
- (5) This section does not deprive a member or a member's assignee of the benefit of any exemption laws applicable to the member's or assignee's limited liability company interest.
- (6) The limited liability company is not a necessary party to an application for a charging order. Service of the charging order on a limited liability company may be made by the court granting the charging order or as the court should otherwise direct.
- (7) ***This section does not apply to the enforcement of a judgment by a limited liability company against a member of that company.***
- (8) ***This section does apply to the issuance of a charging order against the interest of a member or assignee of a member of a foreign limited liability company.***

➔Section 14. KRS 275.280 is amended to read as follows:

- (1) A person shall disassociate from and cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:
 - (a) Subject to the provisions of subsection (3) of this section, the member withdraws by voluntary act from the limited liability company;
 - (b) The member ceases to be a member of the limited liability company as provided in KRS 275.265;
 - (c) The member is removed as a member:
 - 1. In accordance with a written operating agreement;
 - 2. Unless otherwise provided in a written operating agreement, if after an assignment there is at least one (1) other member, when the member assigns all of the member's limited liability company interest that may be unilaterally assigned, upon receipt of the written consent of a majority-in-interest of the members who have not assigned their interest; ***or***
 - 3. If after the assignment there are no other members, upon the effective time and date of the assignment;~~or~~
 - ~~4. Upon resignation as a member;~~
 - (d) Unless otherwise provided in a written operating agreement or by written consent of majority-in-interest of the members, at the time the member:
 - 1. Makes an assignment for the benefit of creditors;
 - 2. Files a voluntary petition in bankruptcy;
 - 3. Is adjudicated bankrupt or insolvent;
 - 4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
 - 5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or
 - 6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;

- (e) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;
 - (f) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of a member that is an individual:
 - 1. The member's death; or
 - 2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his or her person or estate;
 - (g) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;
 - (h) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;
 - (i) Unless otherwise provided in a written operating agreement or by written consent of the majority-in-interest of the members remaining at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or
 - (j) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.
- (2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.
- (3) Unless otherwise provided in a written operating agreement:
- (a) In a member-managed limited liability company a member may resign from a limited liability company upon thirty (30) days' prior written notice to the limited liability company; and
 - (b) In a manager-managed limited liability company, a member may not resign without the consent of all other members.
- (4) Upon the effective date of the resignation, the resigning member shall be dissociated from and cease to be a member of the limited liability company and shall be with respect to the resigning member's limited liability company interest an assignee thereof.
- (5) The successor-in-interest of a disassociated member shall be an assignee.
- (6) ***Except as set forth in a written operating agreement, the dissociation of a member does not entitle the former member or any assignee thereof to any distribution.***
- ➔Section 15. KRS 275.337 is amended to read as follows:
- (1) A member may maintain a direct action against a limited liability company, another member, or a manager to redress an injury sustained by, or to enforce a duty owed to, the member if the member can prevail without showing an injury or breach of duty to the company.
 - (2) A member may maintain a derivative action to redress an injury sustained by or enforce a duty owed to a limited liability company if:

- (a) The member shall first make a demand on the other members and, if the company is manager-managed, the managers, requesting that they cause the company to bring an action to redress the injury or enforce the right, and they do not bring the action within a reasonable time; or
- (b) A demand would be futile.
- (3) A derivative action on behalf of a limited liability company shall be maintained only by a person that is a member at the time the action is commenced and who:
 - (a) Was a member when the conduct giving rise to the action occurred; or
 - (b) Acquired the status as a member by operation of law or pursuant to the terms of the operating agreement from a person that was a member at the time of the conduct giving rise to the action occurred.
- (4) In a derivative action on behalf of the limited liability company, the complaint shall state with particularity:
 - (a) The date and content of the member's demand and the response to the demand; or
 - (b) The reason the demand should be excused as futile.
- (5) ***The derivative proceeding shall not be maintained if:***
 - (a) ***It appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholder in enforcing the rights of the limited liability company; or***
 - (b) ***The person commencing the proceeding ceases to be a member in the limited liability company.***
- (6) Except as otherwise provided in subsection ~~(9)~~~~(8)~~ of this section:
 - (a) Any proceeds or other benefits of a derivative action on behalf of a limited liability company, whether by judgment, compromise, or settlement, are the property of the company and not of the plaintiff; and
 - (b) If the plaintiff receives any proceeds or other benefits, the plaintiff shall immediately remit them to the company.
- ~~(7)~~~~(6)~~ A derivative action on behalf of a limited liability company ***shall***~~may~~ not be voluntarily dismissed or settled without the court's approval.
- ~~(8)~~~~(7)~~ The proper venue for a direct action under subsection (1) of this section or a derivative action shall be the Circuit Court for the county in which the company maintains its registered office and agent.
- ~~(9)~~~~(8)~~ On termination of the proceeding brought pursuant to this section, the court may:
 - (a) Require the plaintiff member to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding to the extent it finds that the proceeding or any portion thereof was commenced without reasonable cause or for an improper purpose; and
 - (b) Require the limited liability company to pay the plaintiff member's reasonable expenses, including counsel fees, incurred in the proceeding to the extent it finds that the proceeding has resulted in a substantial benefit to the company.

➔Section 16. KRS 362.285 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a partner or a partner's transferee, a court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a transferee and shall have no right to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's transferable interest in the partnership.

- (4) The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee. A charging order does not of itself constitute an assignment of the transferable interest.
- (5) At any time before foreclosure, an interest charged may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than partnership property, by one (1) or more of the other partners; or
 - (c) With partnership property, by one (1) or more of the other partners with the consent of all of the partners whose interests are not so charged.
- (6) This section does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.
- (7) The partnership is not a necessary party to an application for a charging order. Service of the charging order on a partnership may be made by the court granting the charging order or as the court may otherwise direct.
- (8) ***This section shall not apply to the enforcement of a judgment by a partnership against a partner of that partnership.***
- (9) ***This section shall apply to the issuance of a charging order against the interest of a partner or assignee of a partner of a foreign partnership.***

➔Section 17. KRS 362.481 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.
- (2) On application to a court of competent jurisdiction by any judgment creditor of a partner or a partner's transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a transferee, and shall have no right to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's transferable interest. A charging order does not of itself constitute an assignment of the transferable interest.
- (4) The court may order a foreclosure upon the transferable interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.
- (5) At any time before foreclosure, an interest charged may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than limited partnership property, by one (1) or more of the other partners; or
 - (c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.
- (6) This section does not deprive any partner or a partner's transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.
- (7) The partnership is not a necessary party to an application for a charging order. Service of the charging order on a partnership may be made by the court granting the charging order or as the court may otherwise direct.
- (8) ***This section shall not apply to the enforcement of a judgment by a limited partnership against a partner of that partnership.***
- (9) ***This section shall apply to the issuance of a charging order against the interest of a partner or assignee of a partner of a foreign partnership.***

➔Section 18. KRS 362.1-504 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a partner or a partner's transferee, a court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a transferee and shall have no right to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's transferable interest in the partnership.
- (4) The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee. A charging order does not of itself constitute an assignment of the transferable interest.
- (5) At any time before foreclosure, an interest charged may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than partnership property, by one (1) or more of the other partners; or
 - (c) With partnership property, by one (1) or more of the other partners with the consent of all of the partners whose interests are not so charged.
- (6) This subchapter does not deprive a partner or a partner's transferee of a right under exemption laws with respect to the partner's or transferee's interest in the partnership.
- (7) The partnership is not a necessary party to an application for a charging order. Service of the charging order on a partnership may be made by the court granting the charging order or as the court may otherwise direct.
- (8) ***This section shall not apply to the enforcement of a judgment by a partnership against a partner of that partnership.***
- (9) ***This section shall apply to the issuance of a charging order against the interest of a partner or transferee of a partner of a foreign partnership.***

➔Section 19. KRS 362.2-703 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.
- (2) On application to a court of competent jurisdiction by any judgment creditor of a partner or a partner's transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a transferee, and shall have no right to participate in the management or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's transferable interest. A charging order does not of itself constitute an assignment of the transferable interest.
- (4) The court may order a foreclosure upon the transferable interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.
- (5) At any time before foreclosure, an interest charged may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than limited partnership property, by one (1) or more of the other partners; or
 - (c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

- (6) This subchapter does not deprive any partner or a partner's transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.
- (7) The partnership is not a necessary party to an application for a charging order. Service of the charging order on a partnership may be made by the court granting the charging order or as the court may otherwise direct.
- (8) ***This section shall not apply to the enforcement of a judgment by a limited partnership against a partner of that partnership.***
- (9) ***This section shall apply to the issuance of a charging order against the interest of a partner or transferee of a partner of a foreign partnership.***

➔Section 20. KRS 362.2-933 is amended to read as follows:

- (1) A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:
 - (a)~~[(1)]~~ That was a partner when the conduct giving rise to action occurred; or
 - (b)~~[(2)]~~ Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of that conduct.
- (2) ***The derivative proceeding shall not be maintained if:***
 - (a) ***It appears that the person commencing the proceeding does not fairly and adequately represent the interests of the partners in enforcing the rights of the limited partnership; or***
 - (b) ***The person commencing the proceeding ceases to be a partner in the limited partnership.***

➔Section 21. KRS 386A.6-060 is amended to read as follows:

- (1) If a beneficial interest is not freely transferable by a beneficial owner so that the transferee has all rights of the transferor, this section provides the exclusive remedy by which the judgment creditor of a beneficial owner or a transferee of a beneficial owner may satisfy a judgment out of the judgment debtor's beneficial interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a beneficial owner or a beneficial owner's transferee, a court may charge the judgment debtor's beneficial interest with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor shall have no right to participate in the management or to cause the dissolution of the statutory trust. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the beneficial interest and make all other orders, directions, accounts, and inquiries the judgment creditor might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's beneficial interest. A charging order does not of itself constitute an assignment of the beneficial interest.
- (4) The court may order a foreclosure upon the beneficial interest subject to the charging order at any time. The purchaser of the beneficial interest at the foreclosure sale shall have no right to participate in the management or to cause the dissolution of the statutory trust. Upon foreclosure the beneficial owner shall be dissociated from and cease to be a beneficial owner of the trust. At any time before foreclosure, the charged beneficial interest may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than statutory trust property, by one (1) or more of the other beneficial owners; and
 - (c) With statutory trust property, by the statutory trust with the consent of the trustees.
- (5) This section does not deprive a beneficial owner or a beneficial owner's transferee of the benefit of any exemption laws applicable to the beneficial interest.
- (6) The statutory trust is not a necessary party to an application for a charging order. Service of the charging order on a statutory trust may be made by the court granting the charging order or as the court should otherwise direct.
- (7) ***This section shall not apply to the enforcement of a judgment by a statutory trust against a beneficial owner of that trust.***

- (8) ***This section shall apply to the issuance of a charging order against the beneficial interest of a beneficial owner or assignee of a beneficial owner of a foreign statutory trust.***

➔Section 22. KRS 382.135 is amended to read as follows:

- (1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:
- (a) The full name of the grantor and grantee;
 - (b) The mailing addresses of the grantor and grantee;
 - (c) A statement of the full consideration;
 - (d) A statement indicating the in-care-of address to which the property tax bill for the year in which the property is transferred may be sent; and
 - (e)
 - 1. In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his ***or her*** agent and the grantee or his ***or her*** agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or
 - 2. In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his ***or her*** agent and the grantee or his ***or her*** agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.
- (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section shall not apply to:
- (a) Deeds which only convey utility easements;
 - (b) Deeds which transfer property through a court action pursuant to a divorce proceeding;
 - (c) Deeds which convey rights-of-way that involve governmental agencies;
 - (d) Deeds which convey cemetery lots;
 - (e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee; or
 - (f) Deeds which convey real property to a local airport board.
- (3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.
- (4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, prior to closing out the estate, shall file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:
- (a) The names and addresses of the persons receiving each property passing by will or intestate succession; and
 - (b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.
- (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (6) ***For purposes of subsection (1) of this section:***
- (a) ***The full name of an individual shall be determined as provided in KRS 355.9-503(1)(d) and (e); and***
 - (b) ***The full name of a business entity shall be synonymous with its real name determined as provided in KRS 365.015(1)(b) and (c).***

➔Section 23. KRS 386A.6-110 is amended to read as follows:

- (1) A beneficial owner may maintain a direct action against a statutory trust or a trustee to redress an injury sustained by, or to enforce a duty owed to, the beneficial owner if the beneficial owner can prevail without showing an injury or breach of duty to the trust.
- (2) A beneficial owner may maintain a derivative action to redress an injury sustained by or enforce a duty owed to a statutory trust if:

- (a) The beneficial owner first makes a demand on the trustees, requesting that the trustees cause the trust to bring an action to redress the injury or enforce the right, and the trustees do not bring the action within a reasonable time; or
 - (b) A demand would be futile.
- (3) A derivative action on behalf of a statutory trust may be maintained only by a person that is a beneficial owner at the time the action is commenced and who:
 - (a) Was a beneficial owner when the conduct giving rise to the action occurred; or
 - (b) Acquired the status as a beneficial owner by operation of law or pursuant to the terms of the governing instrument from a person that was a beneficial owner at the time of the conduct giving rise to the action occurred.
- (4) In a derivative action on behalf of the statutory trust, the complaint must state with particularity:
 - (a) The date and content of the plaintiff's demand and the trustees' response to the demand; or
 - (b) The reason the demand should be excused as futile.
- (5) ***The derivative proceeding shall not be maintained if:***
 - (a) ***It appears that the person commencing the proceeding does not fairly and adequately represent the interests of the beneficial owners in enforcing the rights of the statutory trust; or***
 - (b) ***The person commencing the proceeding ceases to be a beneficial owner in the statutory trust.***
- (6) Except as otherwise provided in subsection ~~(10)~~~~(6)~~ of this section:
 - (a) Any proceeds or other benefits of a derivative action on behalf of a statutory trust, whether by judgment, compromise or settlement, are the property of the trust and not of the plaintiff; and
 - (b) If the plaintiff receives any proceeds or other benefits, the plaintiff shall immediately remit them to the trust.
- ~~(7)~~~~(6)~~ A derivative action on behalf of a statutory trust may not be voluntarily dismissed or settled without the court's approval.
- ~~(8)~~~~(7)~~ The proper venue for a direct action under subsection (1) of this section or a derivative action in which the action is brought solely against one (1) or more trustees shall be an appropriate court.
- ~~(9)~~~~(8)~~ A beneficial owner associated with a series, if the series may pursuant to KRS 386A.4-010(4) be sued in its own name, may bring an action pursuant to subsection (1) or (2) of this section against only that series, the trustees associated with the series, or both. If brought only against a series or the trustees associated with the series, any demand made pursuant to subsection (2)(a) of this section shall be upon the trustees associated with the series.
- ~~(10)~~~~(9)~~ On termination of the proceeding brought pursuant to this section, the court may:
 - (a) Require the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding to the extent it finds that the proceeding or any portion thereof was commenced without reasonable cause or for an improper purpose; and
 - (b) Require the statutory trust, or as appropriate a series thereof, to pay the plaintiff's reasonable expenses, including counsel fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the statutory trust or to a series thereof.

Became law without Governor's signature April 12, 2017.

CHAPTER 194

(HB 13)

AN ACT relating to veterans centers, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby authorized to the Kentucky Department of Veterans' Affairs for the Bowling Green Veterans Center \$10,500,000 of Bond Funds in fiscal year 2016-2017, for the construction of a state veterans nursing home. This authorization is the required matching funds that complement the \$19,500,000 provided by the United States Department of Veterans Affairs and, upon enactment, no other action is necessary to authorize these funds.

➔Section 2. ~~[Notwithstanding KRS 48.720 and 2016 Ky. Acts ch. 149, Pt. III, 32., General Fund moneys appropriated to the Finance and Administration Cabinet for debt service in fiscal years 2016-2017 and 2017-2018 that are not needed to satisfy any debt service obligation shall first be used to support debt service for the construction of the Bowling Green Veterans Center authorized in Section 1 of this Act before being used to support availability payments required by the Kentucky Communications Network Authority's public-private partnership contract.]~~

➔Section 2. It is the desire of the General Assembly that any future beds allocated from the United States Department of Veterans Affairs or reallocated from the Kentucky Department of Veterans' Affairs be dedicated to a state veterans nursing home in Magoffin County to serve that area.

➔Section 3. Whereas the veterans of the Commonwealth deserve the best possible care, as near to their homes and families as is practicable, and whereas this bill will advance that highly important public purpose in this time of urgent need, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Vetoed in part April 11, 2017. Portions not vetoed became law April 12, 2017, without Governor's signature.